

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA



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In Attendance: COMMISSIONER MARTHA GUZMAN ACEVES
ADMINISTRATIVE LAW JUDGE CATHLEEN A. FOGEL, presiding

)	PREHEARING
)	CONFERENCE
Order Instituting Rulemaking to)	
Consider Regulating)	
Telecommunications Services Used by)	
Incarcerated People.)	
)	Rulemaking
)	20-10-002
)	
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Reported by: Karly Powers, CSR No. 13991
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VIRTUAL PROCEEDING

SEPTEMBER 15, 2021 - 10:05 A.M.

* * * * *

ADMINISTRATIVE LAW JUDGE FOGEL: Okay.

Let's go ahead and go on the record.

Good morning. This is the second prehearing conference for Rulemaking 20-10-002, The Order Instituting Rulemaking to Consider Regulating Telecommunication Services Used By Incarcerated People.

Today is September 15th, 2021. I am Administrative Law Judge Cathleen Fogel. I oversee and manage this proceeding in consultation with assigned Commissioner Martha Guzman Aceves.

Commissioner Guzman Aceves is attending today at this prehearing conference and will make certain remarks after I review the agenda and briefly review the ground rules for today.

The purpose of today's prehearing conference is to listen to and engage with parties to form the discovering ruling that Commissioner Guzman Aceves will send out to guide our work in Phase 2 of this proceeding.

The agenda today is as follows:
We'll first review the ground rules. Next, we'll review the service list and take

1 appearances. We'll then discuss issues and
2 scope followed by a discussion of proceeding
3 categorization, schedule, and the need for
4 evidentiary hearing.

5 We will not be making any decisions
6 at today's PHC.

7 As I mentioned before we got
8 started, please be sure to mute yourself
9 unless you are called upon to speak or it's
10 your turn to speak. The first time you
11 speak, please state your name and then spell
12 your name. Thereafter, please state your
13 name before you speak every time you speak.
14 Please speak clearly and slowly. And if you
15 would like to speak, please raise your actual
16 or virtual hand.

17 And again, as I noted earlier, the
18 court reporter or I will, as needed,
19 interrupt speakers if there are inaudible
20 statements. We'll do so in the least
21 disruptive way as possible.

22 Where necessary the reporter will
23 insert the word "inaudible" in the transcript
24 if there is dropped, garbled, or otherwise
25 indecipherable audio. Our goal is to provide
26 with you the clearest record of these
27 proceedings as possible.

28 If you would like a transcript of

1 today's hearing, you may request one by
2 e-mailing ALJ_reporting@cpuc.ca.gov.

3 Are there any concerns with those
4 ground rules or concerns or questions about
5 holding this prehearing conference remotely?

6 (No response.)

7 ALJ FOGEL: Okay. Seeing none I will
8 move on.

9 Okay. We will address the service
10 list and take appearances now.

11 So pursuant to Article 1.4 of the
12 Commission's Rules of Practice and Procedure
13 all entities that provided opening or reply
14 comments on the Order Instituting Rulemaking
15 were automatically made parties in this
16 proceeding.

17 However, as discussed in Decision
18 21-08-037 that resulted in the service list
19 with over 900 parties. Therefore, Decision
20 21-08-037, ordering Paragraphs 8 and 9,
21 reduced the list of parties to the 41 parties
22 that we have today.

23 If you are observing today's
24 prehearing conference, you can join the
25 service list in two ways. First, you can
26 file a motion to become a party pursuant to
27 Rule 1.4 of the Commission's Rules of
28 Practice and Procedure. Second, you can join

1 the service list in information only status
2 by notifying our process office that you
3 would like to do so.

4 Information on how to take these
5 steps is available at the proceedings and
6 rulemaking link at the bottom of the
7 Commission's main web page.

8 Let's move on to appearances.

9 As I call your name, please state
10 your appearance for the record by responding
11 "present." And I'll note that some speakers
12 for this prehearing conference are not the
13 same individuals as the party contact listed
14 currently on the service list.

15 If any of you speaking today also
16 request to be made the party representative
17 on the service list, please indicate that
18 after you say "present."

19 Also, if you wish to designate your
20 pronoun at this time, you may state that as
21 well.

22 Okay. I'll go ahead and get
23 started. Angela Collins with Global Tel Link
24 Corporation.

25 MS. COLLINS: Present.

26 ALJ FOGEL: Thank you.

27 Lee G. Petro with Network
28 Communications International Corporation

1 doing business as NCIC Inmate Communications.

2 MR. PETRO: Present. Last name is
3 pronounced Petro.

4 ALJ FOGEL: Petro. All right.

5 MR. PETRO: Thank you.

6 ALJ FOGEL: Joanna Acocella with
7 Securus Technologies.

8 MS. ACOCELLA: Present.

9 ALJ FOGEL: Bianca Tylek with
10 Californians for Jail and Prison Phone
11 Justice Coalition.

12 MS. TYLEK: Present. Pronouns she or
13 her.

14 ALJ FOGEL: Scott Merrill with
15 California Public Advocates.

16 MR. MERRILL: Present.

17 ALJ FOGEL: Thank you, Mr. Merrill.

18 If you could -- oh, there you are.
19 Okay.

20 I notice -- I believe currently that
21 Candace Choe is the party representative on
22 the service list. Should that be changed to
23 your name?

24 MR. MERRILL: Yeah. That's a good
25 point. Yeah, I should be changed to the
26 representative. Thank you.

27 ALJ FOGEL: All right. Thank you.

28 If the proceeding analyst, Julie

1 Lane, can make a note of that to our process
2 office, I'd appreciate that.

3 Next is Paul Goodman with Center for
4 Accessible Technology.

5 Okay. Excuse me. Mr. Goodman, we
6 can't hear you. Make sure you're unmuted.

7 Let's go off the record.

8 (Off the record.)

9 ALJ FOGEL: Okay. We'll be back on the
10 record. And let me call that again.

11 Mr. Paul Goodman with the Center for
12 Accessible Technology.

13 MR. GOODMAN: I'm present, your Honor.
14 My pronouns are he/him.

15 ALJ FOGEL: And Stephen Raher with
16 Prison Policy Initiative.

17 MR. RAHER: Present.

18 ALJ FOGEL: Anne Stuhldreher with San
19 Francisco Financial Justice Project.

20 MS. STUHLDTREHER: Yes, your Honor. I'm
21 present. Thank you.

22 ALJ FOGEL: And Brenda Villanueva with
23 The Utility Reform Network.

24 MS. VILLANUEVA: Present, your Honor.
25 And I will also note that my colleague,
26 Christine Mailloux, is on the phone line as
27 well.

28 ALJ FOGEL: Okay. Super.

1 And was there anyone other than
2 Mr. Merrill who should be made the main
3 contact on the party representative list or
4 on the service list if you did not mention
5 that?

6 MR. RAHER: Yes, your Honor. I
7 submitted a written request a couple weeks
8 ago. I don't think it was updated by the
9 time of the last briefing, but I can follow
10 up with the service office.

11 ALJ FOGEL: So who should be the name
12 of the contact on the -- of your party on the
13 service list? Is that you or --

14 MR. RAHER: It should be me, yes.

15 ALJ FOGEL: It should be you. Okay.
16 We will -- Julie Lane will help me follow up
17 on that and make sure that it is you.

18 MR. RAHER: Thank you.

19 ALJ FOGEL: Okay. Super.

20 Before we go on to discussing the
21 issues and scope and the schedule, et cetera,
22 I'd like to turn to Commissioner Martha
23 Guzman Aceves who was here.

24 There you are.

25 COMMISSIONER GUZMAN ACEVES: Yes.
26 Thank you, Judge Fogel.

27 I should try not to mute myself when
28 I'm talking.

1 All right. Thank you very much for
2 being here this morning. It is with a lot of
3 excitement that we're taking on this next
4 phase, but I wanted to discuss a couple of
5 things, of course.

6 First, I just want to acknowledge
7 the amount of recommendations and different
8 approaches that were -- have been recommended
9 by many of you. Some of you recommended that
10 we look at separate rules for disabled people
11 in the incarcerated system. Juvenile
12 facilities we looked at separately. And some
13 even suggested small jails be looked at
14 separately.

15 And, of course, many of you
16 recommended that our next phase really focus
17 on video calling and text messaging. And
18 while some of you asked that we wait on
19 anything further and really look at how the
20 interim rules have played out and focus
21 simply on voice.

22 So you've given us a lot to think
23 about. And I really am looking forward to
24 today's discussion on both your
25 recommendations on process and phasing and
26 certain scope.

27 I did have a particular set -- there
28 were some suggestions that came in that I

1 wanted to also draw your attention to and
2 share much of what we had learned through
3 this process in this rulemaking and some of
4 the nontraditional forms of providing
5 telecommunication access. And I want you to,
6 of course, not think about necessarily the
7 different solutions here but to talk about
8 any suggestions on the process that you might
9 have.

10 So let me just touch upon those and
11 give an example. Many folks suggested -- or
12 just actually a few of you, but they were
13 kind of tricky to have the Commission really
14 seek alternative funding models for these
15 services.

16 And some of the specifics that were
17 recommended came across both during the
18 proceeding but also in some of the
19 recommendations here to comment. And folks
20 called out the existing counties that have
21 free calls: San Diego, San Francisco. And I
22 believe LA is currently considering it.

23 Many of you called out that certain
24 jurisdictions and certain prisons allow for
25 15 minutes of free -- and some of those were
26 monthly and others had different time
27 durations.

28 Certainly, we've all learned about

1 what innovation is happening at the Los
2 Angeles County Office of Education and the
3 work that they're doing with their
4 incarcerated youth to keep them educated as
5 well as connected with their loved ones and
6 that they use, at least in part, funding from
7 the state Teleconnect Fund.

8 Some -- one party mentioned that use
9 of the state lifeline program and potentially
10 leveraging it for both in-prison and
11 out-of-prison services. And even just other
12 suggestions have referenced older programs
13 that the Commission has had.

14 There was a program that was funded
15 previously called the Public Pay Phone
16 Program, which was a free access to pay
17 phones and phones also for the hearing
18 impaired.

19 And so as you may know, the
20 Commission has many public purpose programs
21 when it comes to providing telecommunication
22 services to Californians particularly
23 low-income Californians or disabled
24 Californians.

25 We're very fortunate that the
26 disability program that focuses on
27 telecommunication needs in disability
28 communities did receive a statutory fix that

1 is pending too with the governor. And we're
2 very hopeful that he will sign that.

3 This all is just to say that there
4 does seem to be some further exploration of
5 these ideas merited. And I would really
6 appreciate some of the creative ideas that
7 were put forward, but I do think there is a
8 need to really develop those further.

9 And so what I'd like to hear from
10 you today is any thoughts that you have on
11 ways to do that. And so it could be
12 anything, as an example, from recommending a
13 certain phase, recommending a certain type of
14 workshop, or potentially tagging some of the
15 parties to further development.

16 So thank you for letting me share
17 that. That is -- that was a particular
18 interest to me when I saw some of those
19 recommendations.

20 And again, I want to thank you for
21 being here and for your thoughtfulness to
22 date. And I look forward to today's
23 discussion.

24 Thank you, Judge Fogel.]

25 ALJ FOGEL: Thank you, Commissioner.

26 And it looks like all systems are
27 go. I saw the handoff between court
28 reporters there. I haven't seen that before.

1 That's interesting. All right. Let's go
2 ahead and move to discuss the scope. And I
3 appreciate that, kind of, broader, sort of,
4 thoughtful guidance that the commissioner
5 provided.

6 Just going back to the August 24th
7 ruling, we did invite prehearing conference
8 statements. And seven parties filed those,
9 which we really appreciated as the
10 commissioner mentioned. They were very
11 helpful. It's a complex set of issues. So
12 what we're -- what we'd like to do here is to
13 just give each party several minutes to make
14 statements about the scope and the
15 prioritization of the issues that you
16 recommend for Phase 2. You can also
17 recommend issues that you would say should be
18 de-prioritized and left to perhaps an
19 additional Phase 3.

20 As I mentioned, we'll go in
21 alphabetical order by the names of the
22 providers first followed by the intervenors.
23 As we go along, myself or the commissioner
24 may have some questions. And you'll also
25 have chances to respond to each other. You
26 can also respond to comments made in each
27 others' prehearing conference statements as
28 you go along and we'll have more discussion

1 time as well.

2 So we'll go ahead and get started
3 with Ms. Angela Collins representing Global
4 Tel Link Corporation.

5 MS. COLLINS: Good morning. I will not
6 repeat the statements that were in our filed
7 prehearing statement. Only to give a brief
8 overview.

9 Global Tel Link, also known as
10 "GTL," believes given the massive change in
11 regulation due to the interim decision as
12 well as the FCC decision, which is also being
13 implemented at the same time, that Phase 2
14 would benefit from some time so that the
15 Commission can observe what happens in the
16 market; what further changes may be needed
17 after implementation of the California ruling
18 and the FCC ruling; and to give providers and
19 the incarcerated the ability to experience
20 the new rate regime that will take place over
21 the next month.

22 Secondly, GTL believes that all
23 state voters need to be involved in this
24 proceeding. The correctional facilities and
25 their associations were not involved in Phase
26 1. And to the commissioner's point about
27 alternative funding methods, those
28 stakeholders really are the people that need

1 to be involved in determining such
2 alternative funding. To the extent that a
3 county or a state would like to give the
4 incarcerated free calling, that is a
5 budgetary issue, which needs to involve
6 either the legislature or the correctional
7 facility or the county council in which the
8 incarcerated are located.

9 And finally -- and I believe there
10 was some agreement in the record on this
11 issue was regarding the Commission's
12 jurisdiction over broadband and other
13 information services. Several parties
14 suggested that that be a separate component
15 or that the Commission take legal briefs on
16 that issue separately as part of Phase 2.
17 And GTL also believes that that issue should
18 be resolved near the beginning of Phase 2 to
19 avoid any further unnecessary discovery or
20 other -- other actions if the Commission
21 determines it does not have jurisdiction over
22 (inaudible).

23 That's all I have. I'm happy to
24 answer any questions.

25 ALJ FOGEL: Okay. I think I will hold
26 off on any questions for now for you.

27 Commissioner, do you have any
28 questions at this time?

1 COMMISSIONER GUZMAN ACEVES: No. Thank
2 you.

3 ALJ FOGEL: All right.

4 Moving on next to Mr. Lee Petro with
5 NCIC, inmate communications.

6 MR. PETRO: Good morning.

7 ALJ FOGEL: Just a reminder. If you
8 could please state and spell your name as you
9 get started.

10 MR. PETRO: Sure. Lee Petro,
11 P-e-t-r-o, on behalf of NCIC. We do not have
12 a prepared statement to put into the record
13 at this point. NCIC has been active both
14 with the FCC and here in California with
15 respect to the regime reform of rates and
16 other ancillary fees that are charged in
17 incarcerated persons.

18 We encourage the Commission to, you
19 know, take a look at the rates that are going
20 to be imposed. The initial decision set
21 rates below that which NCIC had urged the
22 Commission to adopt.

23 Moving forward into the Phase 2, we
24 -- some of the effects of those rate changes
25 need to be analyzed and incorporated into how
26 the Commission moves forward.

27 And so at this point, I'm happy to
28 answer any questions but will have more to

1 put into the record during the comment
2 process.

3 ALJ FOGEL: Okay. Thank you,
4 Mr. Petro. I do not have any questions right
5 now.

6 Let's move on to the next speaker,
7 which would be Ms. Joanna Acocella.

8 (Crosstalk.)

9 ALJ FOGEL: -- Securus Technologies.
10 If you can please state and spell your name
11 again as you get started.

12 MS. ACOCELLA: Of course. Joanna
13 Acocella, J-o-a-n-n-a. Last name is,
14 A-c-o-c-e-l-l-a. I want to thank you, Judge
15 and Commissioner, for having us today. We
16 share your goal of improving affordability
17 and access to telecommunications that we
18 provide to incarcerated individuals. We
19 really appreciate the opportunity for all of
20 us, including the panelists here and the many
21 folks listening, to collaborate on this
22 important work.

23 We noted in our submitted written
24 commentary that we recommend the central
25 focus of Phase 2 be the collection and the
26 analysis of cost data to support the
27 identification and implementation of
28 reasonable, sustainable, permanent rate caps

1 for calling services that are being provided.

2 In the interim decision, the
3 Commission had specifically encouraged
4 organizations to provide cost data and
5 recognize the importance of adopting a waiver
6 process as a safety valve. We support both
7 of these critical steps and urge the
8 Commission to recognize the complexity and
9 the value in approaching these measures.

10 We recommend that the Commission
11 should first solicit proposals on mechanisms
12 for collecting and submitting cost data into
13 the record and also a methodology by which
14 the Commission will derive just and
15 reasonable industry-wide rate caps for
16 intrastate IPCS.

17 The Commission could obviously
18 choose to utilize the cost data that's
19 already been submitted by providers to the
20 FCC as standalone data points, choose to
21 supplement them with California-specific cost
22 data, but we would suggest that you recognize
23 one of the limitations of the FCC initial
24 data collection. It was a lack of clear
25 instructions and standardized cost
26 allocations. If new cost data is going to be
27 collected, we urge the Commission to address
28 the design of such a collection to provide a

1 more uniform cost basis for your comparison.

2 In fact the FCC is expecting to have
3 a new template and instructions for data
4 collection due out on October 26th that can
5 serve as a useful model in California and
6 then be specialized to meet the needs of the
7 state and its participants.

8 We also believe that the
9 Commission's treatment of site commissions
10 requires attention. A thorough approach
11 would require that cost data be submitted by
12 correctional authorities. And this issue may
13 in fact lend itself to a workshop or local
14 government agency responsible for overseeing
15 correctional facilities participate directly.

16 We also believe that the Commission
17 could seek comment on the methodology for
18 analyzing the cost data, consideration of
19 rate caps based on the facility size. Some
20 are critical and were proven in the initial
21 FCC analysis to have a meaningful
22 distinction. And the use of alternative rate
23 structures such as flat rate subscription
24 plans are a meaningful option and one that
25 was raised several times by public parties.

26 Most importantly the proposal should
27 also consider including a waiver process or
28 other mechanism for those individual

1 facilities whose cost demonstrably exceed the
2 caps. There are some of them, particularly
3 smaller California counties, that find
4 themselves in this position.

5 We recommend that the Commission
6 focus on the primary issue being identified
7 for consideration in this proceeding, which
8 is to set just and reasonable rates for voice
9 services. To the extent that the Commission
10 wishes to address other issues, Securus
11 believes they should be addressed in the
12 subsequent sub -- rulemaking to give everyone
13 sufficient time and attention.

14 We look forward to the opportunity
15 to continue collaborating on this important
16 work, and we appreciate the shared goals of
17 improving the affordability and access for
18 these services the individual consumers who
19 need them.

20 Thank you.

21 ALJ FOGEL: Okay. Thank you,
22 Ms. Acocella. I do have a couple of
23 questions for you. Thank you for your
24 suggestions. I think they're very
25 interesting, and it's helpful to have more
26 information on FCC's timing and process to
27 develop their templates and their
28 instructions.

1 The question I had is regarding the
2 methodology. I believe in your statement
3 here today, you've made more clear that you
4 are suggesting that the Commission take party
5 comment on the methodology to develop
6 permanent rates; is that correct?

7 MS. ACOCELLA: That is correct.

8 ALJ FOGEL: Okay. And how do you see
9 the timing of collecting comment on that as
10 compared to the process of developing the
11 format and the mechanisms to collect data?
12 Which in my mind in looking at your comments,
13 that latter process would really take at
14 least six to nine months for any final
15 submittal of data based on any more math
16 developed.

17 MS. ACOCELLA: In the proposed schedule
18 that we submitted, we do note that we believe
19 that there is some significant time required
20 after the scoping mechanism to submit the
21 proposals on cost data. I think one of the
22 points to expound here is that the collection
23 of the data in a uniform method will require
24 some additional adjustments on the part of
25 all of the providers; right?

26 One of the challenges in the FCC
27 data collection is that folks made individual
28 interpretations. It's always difficult to

1 compare some of those costs. So we need to
2 allow for some time to ensure that everybody
3 can meet those standards and submit
4 significant costs.

5 There may be some opportunities to
6 overlap those time periods (indecipherable).
7 But I think both the proposals on the
8 methodology for analyzing as well as the
9 collection of data requires some significant
10 effort at the same time that we are
11 implementing a number of other initiatives
12 both for your internal (inaudible) and the
13 FCC.

14 ALJ FOGEL: Okay. Thank you. So I
15 just -- maybe I should simplify my question.
16 Do you believe that we can -- the Commission
17 can take comment on the methodology to
18 develop permanent rates before we have
19 settled the mechanism to collect additional
20 cost data?

21 MS. ACOCELLA: I believe that you can.
22 There may be some areas in which that creates
23 some challenges. We understand that, but it
24 would depend upon the general methodology to
25 certainly require -- I'm sorry. The general
26 methodology can certainly be commented upon
27 before such time as we have finalized the
28 data collection, yes.

1 ALJ FOGEL: Yeah. Okay. Thanks. That
2 is the way I see it. And also not to put you
3 on the spot but with regards to -- I believe
4 you and also Mr. Petro mentioned and also
5 Ms. Collins allowing some time for the
6 interim rates to be implemented.

7 And so my question is -- those other
8 speakers could chime in after you -- is how
9 many months of data -- of implementation of
10 the interim rates would you say is a minimum
11 or would be most helpful in terms of
12 analyzing the effectiveness and the impacts
13 of those rates?

14 MS. ACOCELLA: Judge, I don't believe
15 -- and I'll go back through all of our
16 submitted testimony. But I don't believe we
17 called that out in a specific way from
18 Securus. Others may have done so. We're
19 moving forward with implementing those. And
20 certainly we'll be able to provide feedback
21 and data as the processes overlapped. I did
22 not make that specific call out to you all.

23 ALJ FOGEL: Okay. Thanks for that
24 clarification.

25 I'll just go ahead and jump back to
26 Mr. Petro and Ms. Collins if you would like
27 to comment on that.

28 And so the question is: How many

1 months of data during which time the interim
2 rate is being implemented would you recommend
3 that the Commission -- how many months of
4 implementation of the interim rate should we
5 allow to go by before we analyze those for
6 the effects for their -- for their
7 effectiveness and impacts? How many months
8 do you think is a minimum or say
9 recommended?]

10 MS. COLLINS: This is Angela Collins on
11 behalf of GTL.

12 GTL had recommended several months
13 without a specific quantity of months. The
14 FCC order must be implemented by the end of
15 October. And then you have the Christmas
16 calling season, which is usually a very high
17 telephone time for the incarcerated.

18 So I'm not sure I can state to just
19 positions specifically. Several months was
20 its position; but I think at least 5 or
21 6 months in order to get the trends over the
22 various times of calling periods. It may be
23 that looking at just December data might not
24 give you an accurate picture of data, because
25 of the Christmas calling time. So we would
26 recommend more time into the 2022 to see how
27 both FCC and California are implemented.

28 ALJ FOGEL: Thank you for that, Ms.

1 Collins. That's what I was thinking too,
2 pretty much.

3 Mr. Petro, would you like to comment
4 on this question as well, or at this time?

5 MR. PETRO: Yeah. I don't have a
6 specific proposal for a length of time. And
7 I think it's going to take some time for the
8 implementation of the rates to go into
9 effect. And as Ms. Collins noted, you know,
10 there are several calling, you know, programs
11 around the holiday season that may affect the
12 data.

13 ALJ FOGEL: Okay. Super. Thank you.

14 With that, I'll go ahead and move on
15 and call Ms. Bianca Tylek with Californians
16 for Jail and Prison Phone Justice Coalition.
17 If you could please, again, state and spell
18 your name for the record as you get started.

19 MS. TYLEK: Hello, Judge.

20 Bianca Tylek, that is B-i-a-n-c-a,
21 T-y-l-e-k, for The Californians for Jail and
22 Prison Phone Justice Coalition. Thank you
23 for the opportunity to speak. I want to
24 touch on just a few things. We did submit
25 comments for the record.

26 Just a few things:

27 One, I wanted to say, we appreciate
28 the CPUC for having instituted its own

1 methodology as different from the FCC --
2 which we do not think the FCC needs to be the
3 governing methodology for the CPUC.
4 Importantly, because the FCC has recognized
5 faults in its own methodology and its own
6 data collection, and also because advocates
7 have repeated and reiterated these faults on
8 many occasions.

9 One of the biggest faults, in
10 particular, is the fact that this is all
11 self-reported data from interested parties,
12 typically all of the corporations and vendors
13 in this space. The FCC has actually
14 explicitly in its notices, on multiple
15 occasions, noted that several of the vendors
16 and corporations have inflated their costs of
17 services.

18 In fact, one party, also a party to
19 this proceeding, was in fact docked on its --
20 on its cost of services actually were
21 required to be lowered by 10 percent, which
22 even the FCC acknowledged was quite
23 arbitrary, because they did not know what the
24 exact figures were but knew that they had
25 been inflated. And they also acknowledged
26 that it was quite possible that several of
27 the other vendors and corporations in this
28 space also inflated their rates.

1 So self-reporting data itself, as
2 the sole underlying factor for these
3 methodologies is problematic. And so we
4 appreciate that the FCC -- excuse me -- the
5 CPUC considered data that is actually out in
6 the market, that could not be essentially
7 contested, what are rates that are being
8 actively charged across the country in
9 addition to, obviously, the self-reported
10 data of the vendors.

11 The -- you know, we want to note
12 that with regard to site commissions, we also
13 do agree that the Commission should take a
14 look at site commissions. And, frankly, just
15 with its methodology, we do think that
16 everybody should be able to weigh in on that
17 methodology and thinks that makes sense.
18 Site commission should be considered and, in
19 many cases, us be able to weigh in on whether
20 or not they should exist at all. On what
21 else is included in the rates, that can be
22 and should be passed down to families and the
23 loved ones of those incarcerated.

24 And, finally, we want to just note
25 on the scope, we do think that it should be
26 further than just phone calls. I'll let some
27 of our comrades, others at some of the other
28 parties, discuss jurisdiction. But from a

1 policy perspective, it is really important to
2 realize that these other types of
3 communication services, video calling,
4 electronic messaging services, tablets, may
5 have an impact on phone calls.

6 In fact, many of the contracts are
7 actually bundled contracts that trade off
8 costs for phone calls on costs for these
9 other communication services, which means if
10 you lower or create rate caps for phone call
11 and it's a bundled contract, vendors can
12 simply ship those costs on to video calls or
13 other types of services. But, additionally,
14 we might see phone calls actually completely
15 replaced by some of these other services.
16 And so unless those are also considered, the
17 efforts of the Commission to regulate phone
18 calls can be completely undermined if it
19 doesn't also regulate other communication
20 services provided by the very same vendors to
21 the same population that they can force and
22 create rules for around.

23 And so -- and, with that, you know,
24 the very last thing is, you know, we don't
25 think that there needs to be a time to wait
26 for these interim rates to take hold.
27 There's, in fact, no data there that would be
28 particularly helpful. Once you have cost

1 basis data and you have a methodology, you
2 know, that in and of itself tells you
3 everything you need to know, how much people
4 are on the phone or (inaudible) is not
5 necessarily a relevant point of data.

6 Thank you.

7 ALJ FOGEL: Thank you, Ms. Tylek.

8 I'm not sure I understand your last
9 -- your very last point about -- if you could
10 repeat that, if you wouldn't mind?

11 MS. TYLEK: Sure.

12 My point about the interim rates and
13 whether they're the FCC's new interim rates
14 or the CPUC's interim rates, there's no
15 particularly helpful data that's going to
16 come out of watching them play out. You
17 know, if the methodology is based on cost of
18 service and/or you know what's happening sort
19 of already in the field, whatever is -- the
20 CPUC decides its methodology is to create
21 rates, call volume or things of that sort are
22 not necessarily in any way going to inform
23 that rate in the future.

24 ALJ FOGEL: Okay. Thank you for that.

25 And so I think in what you said I
26 did hear, also, that you would recommend that
27 we allow comment on the methodology used to
28 develop permanent rates, I believe is one

1 thing you said, which is one of the questions
2 I've been having --

3 MS. TYLEK: Yes, your Honor.

4 I think we definitely agree with
5 that. We are currently commenting on that in
6 front of the FCC, as well, around what that
7 methodology is and, in particular, what
8 costs, again, can be considered in the cost
9 of service and, therefore, should be
10 considered in setting rate caps, what costs
11 should be passed down to users, consumers,
12 incarcerated people, and their families, and
13 what costs should be borne by a facility or
14 just not passed down at all.

15 ALJ FOGEL: Okay. Great. Thank you
16 for that.

17 I had a question also -- a couple
18 more questions here, just to get back of the
19 -- your issue about the FCC and experience
20 with the cost inflation that you're stating
21 occurred there. And I believe you noted that
22 the FCC at one point decremented reported
23 costs by 10 percent.

24 Is that -- if I understand
25 correctly?

26 MS. TYLEK: Yeah. I can explain on
27 that just for a second. So, in particular,
28 in this last notice for a proposed

1 rulemaking, the FCC in setting its rate cap,
2 explicitly said that GTL had clearly inflated
3 its rates as compared to the rest of the --
4 you know -- the market.

5 And so, as a result, the FCC
6 essentially reduced all of GTL's
7 cost-of-service data by 10 percent. But they
8 also acknowledged that they aren't sure that
9 actually cured the problem. Because, you
10 know, by nature, they don't actually know
11 exact. But they just knew that there was
12 clearly an inflation.

13 And we, in fact, asked them to find
14 -- fine the corporation for inflating their
15 rates. But they did, as I said, reduce all
16 -- or, rather, their cost -- they did reduce
17 all their costs by 10 percent. And they also
18 noted that it was very possible that the
19 other corporations had also inflated their
20 cost of service in their self-reported data.

21 ALJ FOGEL: Okay. I guess we won't --

22 MS. TYLEK: That's all in the actual --
23 the publication by the filing by the FCC.

24 ALJ FOGEL: Yeah. And I believe I did
25 see some of that discussion earlier in the
26 FCC's ruling.

27 Okay. Let me ask you another
28 question then. In your comments, you

1 describe -- your prehearing conference
2 comments, you describe a practice that you
3 allege is occurring where telecommunication
4 providers are contractually, or in practice,
5 restricting in-person visits to drive
6 incarcerated persons to use calling services.
7 I'm not aware -- I'm not familiar with this
8 practice, if you can describe it a little
9 more.

10 MS. TYLEK: Sure. So, historically,
11 several -- and by "Historically," I mean as
12 of, like, a few years ago. We're talking,
13 like, 2015, 2016, even 2017. Certain
14 corporations, including Securus and GTL, were
15 requiring institutions to restrict visits in
16 order for the -- for them to install and
17 provide video-calling services. That
18 practice, while generally has been ended in
19 its most extreme cases -- meaning, like, the
20 actual ending of visits -- it has not
21 completely ended.

22 We saw a recent contract of GTL's
23 with a county that required the county to not
24 allow for more than one in-person visit a
25 week. And that was in the actual contract.
26 When that type of -- when those type of
27 clauses are included, obviously it's meant to
28 drive communication through their actual

1 platforms, whether that be video calling or
2 regular calling through telephone lines. So
3 that type of behavior has happened, you know,
4 and continues to happen across the nation in
5 these different ways. And so that drives, as
6 I said, use of their platforms.

7 And I think one just last thing I'll
8 sort of note on that is, it's important to
9 realize that 2020 and 2021 have particularly
10 provided that very environment, obviously not
11 within the control of the corporations, but
12 because of Covid, have suspended visits, you
13 know, have -- visits have been suspended
14 across jails and prisons across California
15 and across the nation. And that has actually
16 really escalated call volume.

17 We did an evaluation -- or an
18 analysis of San Francisco's jail. And we
19 found that because of Covid, call volume was
20 up 50 percent per person. And so, again,
21 these environments where you can artificially
22 essentially come down on people's access to
23 their families and control that through their
24 access of communication, you know, that helps
25 drive that factor.

26 ALJ FOGEL: Okay. Thank you. Thanks
27 for that information. I think we'll just
28 have to, kind of, note that. I'm not quite

1 sure where we would address this issue. But,
2 hopefully, we get a little more information
3 on it.

4 Okay. Moving on to Ms. Anne
5 Stuhldreher with the San Francisco Financial
6 Justice Project. If you could go ahead and
7 introduce yourself and spell your name as
8 soon as you get started.

9 MS. STUHLDTREHER: Yes. Thank you, your
10 Honor. My name is Anne Stuhldreher. And my
11 name is spelled A-n-n-e. And my last name is
12 spelled S-t-u-h-l-d-r-e-h-e-r. And my last
13 name is pronounced "Stuhldreher," "Stuhl,"
14 like you sit on, "dreher" rhymes with
15 "chair."

16 And thank you for this opportunity
17 speak today. I am going to speak in my role
18 as the Director of the Financial Justice
19 Project in the Treasurer's Office in the City
20 and County of San Francisco. I do want to
21 note that we are also a member of the party
22 Californians for Jail and Prison Phone
23 Justice Coalition. However, Ms. Tylek, who
24 we collaborated with closely in San Francisco
25 to get to free calls in our jail, is the
26 official representative of our party here
27 today.

28 But, you know, I would just like

1 to -- as we have this conversation today
2 about what to look at in the second phase of
3 the proceeding, I would just like to remind
4 us all of three things:

5 The first thing I want to speak to
6 is, you know, just to remind us of all the
7 people who do not have the privilege and the
8 luxury to be part of this conversation today.
9 These are the people that we heard from so
10 much in San Francisco, and I know you at the
11 CPUC heard from, about how important it is to
12 make these calls as affordable as possible.]

13 In our proceedings we heard, you
14 know, from formally incarcerated people who
15 talked about their time when they were just
16 about to get out of jail. They could not
17 afford to call their family. They could not
18 afford to call around and look for a job or a
19 place to live. We were not helping -- these
20 high phone prices were not helping to set
21 this person up to succeed. We heard from
22 incarcerated parents -- formally incarcerated
23 parents in the San Francisco Jail who could
24 not afford to speak to their children or to
25 speak with their teenager, you know, who was
26 having problems at the time. We heard from,
27 you know, so many mothers and grandmothers
28 and sisters in the community who, you know,

1 had to pick between paying their rent and
2 their bills and, you know, and being able to
3 afford to talk to their incarcerated loved
4 one.

5 The second thing I want to remind
6 all of us is the urgency of this work and
7 this process to make phone calls as free as
8 possible or as close and as affordable as
9 possible.

10 You know, I know I don't need to
11 remind everyone we are in the middle of a
12 global pandemic. People are frantic to stay
13 in touch with their incarcerated loved ones.
14 And phone calls are often the only way to do
15 that.

16 And the last thing I want to just
17 remind folks of is that, you know, this is
18 the year 2021. California is the epicenter
19 of technological innovation in the new
20 economy. Phone call communications cost next
21 to nothing for the rest of us. And I just
22 want to challenge us all to really drive
23 towards that and that it's in all of our
24 interest throughout California and the
25 general public when incarcerated people can
26 stay in touch with their families and their
27 support networks.

28 Lastly, I would just say that in San

1 Francisco our implementation of free phone
2 calls has been very smooth. There have been
3 no problems. We facilitated the CPUC's
4 communication with our sheriff's office and
5 multiple people at our sheriff's office that
6 had a custody that had a finance, et cetera.
7 And if that would be helpful, we are more
8 than happy to, you know, facilitate more
9 communication with our sheriff's office.

10 This reform has really been -- been
11 good for everyone. So with that just, you
12 know, thank you very much for this
13 opportunity to chime in during those
14 proceedings.

15 ALJ FOGEL: And thank you,
16 Ms. Stuhldreher. Appreciate that.

17 I don't believe I have any questions
18 right now. So I will go on and now call on
19 Mr. Scott Merrill for the California Public
20 Advocates.

21 If you could please state and spell
22 your name as you get things started.

23 MR. MERRILL: Yeah, your Honor. So
24 it's Scott Merrill. S-c-o-t-t first name,
25 last name Merrill, M-e-r-r-i-l-l.

26 And I think -- first, Commissioner
27 and your Honor, I think we just wanted to
28 kind of reiterate our thanks for, you know,

1 setting interm rates in Phase 1. I think, as
2 we kind of outlined in our prehearing
3 statement, that we -- you know, Phase 2
4 should really focus on continuing that work
5 that we did in Phase 1. And that's
6 essentially by setting permanent rates.

7 And obviously when we reference
8 permanent rates, we are talking about a goal
9 obviously, interstate voice but also
10 voiceover protocol, voice calling. But we've
11 been very adamant about setting permanent
12 rates for video services and video
13 visitation. You know, it's something that
14 we've kind of definitely harped on throughout
15 this entire proceeding.

16 I think just listening currently to
17 Ms. Tylek kind of talking about how there has
18 been a push towards the device and
19 individuals to utilize these services as
20 opposed to in-person visitation prior to the
21 pandemic, it just really makes me think of
22 what would happen if we choose not to set a
23 rate cap on video calling services, if there
24 would just be kind of a further push to
25 incentivize people to use video calling
26 instead of, you know, something like voice or
27 voice calling. And I think that's kind of a
28 thing that we're most worried about. And

1 then also the stories about reliance today on
2 video calling and the importance that video
3 calling is to, you know, individuals who are
4 incarcerated just seeing their families and
5 that sort of thing. And then also we heard
6 in the public participation hearing about
7 individuals -- juvenile individuals who are
8 incarcerated speaking to their parents and
9 what have you.

10 In terms of, you know, how we go
11 about doing a lot of this, I think there's
12 been a lot of suggestions. I mean, I know
13 GTL has suggested, you know, kind of putting
14 a pause on a lot of this. I don't think it's
15 necessarily a bad thing and I don't think --
16 you know, we think to wait a little bit to
17 see, you know, what comes up from Phase I in
18 terms of resetting. But I don't think that
19 means that we can completely stop for six
20 months and do nothing.

21 Clearly there is data out there
22 whether it be, you know, specifically, as we
23 talked about in our statements, the cost of
24 service data collection is going to be
25 incredibly important. And when we talk about
26 cost of service data collection, we're not
27 just -- you know, we're not talking about
28 everything. We're talking about the cost of

1 just providing these calls, not site
2 commission. You know.

3 And I think the same can be said
4 with regard to filing comments with regards
5 to our methodologies. You know, that might
6 be an important thing at some point. But
7 again, we need the data to know exactly what
8 we're looking at.

9 You know, there was a comment, I
10 think, in one of the statements about, you
11 know, we've had so much time to collect data.
12 What's the hold up? And we had -- again, as
13 we pointed out, we've had incredible
14 reluctance to provide data -- comprehensive
15 data thus far. You know, we talked about
16 where the video calling services is up to
17 this point. You know, obviously we've had
18 issues with regards to GTL and providing that
19 information but also confidentiality.

20 Everything that's been provided so
21 far to us from data request has been marked
22 as confidential, every single sheet of paper,
23 even the title pages and the signature pages.
24 And, you know, a lot of this, I think, for us
25 when we hear that, you know, there's a good
26 faith effort to participate in these
27 hearings. You know, we do wonder sometimes
28 is this just to drag on this hearing as long

1 as possible? So I think it's something that
2 we should keep in mind going forward.

3 You know, it's good to collect a lot
4 of data as we go forward, but also I think we
5 really want to -- we really want to do the
6 work in the interim. And a lot of that is
7 going to be in data collection. I know there
8 was a request for comments with regards to
9 evidentiary hearings. Again, it's the same
10 thing. I don't know that there is a real
11 disconnect with regards to issues of fact in
12 this proceeding because we don't have enough
13 data to know that there's an issue of fact.
14 Maybe there is one and it would warrant an
15 evidentiary hearing. But again, everything
16 is up in the air until we get the data.

17 I mean, and then beyond that I think
18 we're -- I think another thing that we had --
19 were talking about in our statement is
20 establishing service quality standards for a
21 lot of these calls. I mean, we had -- in the
22 public participation hearings specifically we
23 had -- we had someone talk about how her
24 video calling continuously dropped in a
25 conversation with her son, but she was still
26 charged full price for it. And for her it
27 was just too exhausting to try to figure out
28 and try to be compensated for that time you

1 know.

2 And aside from that also, you know,
3 I think Commissioner Guzman said this and,
4 you know, made a great point in her opening
5 talking about individuals with communication
6 disabilities. That absolutely should be
7 included in this proceeding as, you know,
8 obviously they are part of the entire system.
9 But, you know, a lot -- you can't -- if we're
10 trying to really protect every single person
11 who is incarcerated, that's a sizable chunk
12 of the individuals. We're also thinking
13 about transparency in billing, you know,
14 going back to what we talked about earlier
15 with regards to service call standards. Part
16 of that can also be making sure that we are
17 transparent in our billings.

18 So I think all of the stuff should
19 be, you know, included in this Phase 2
20 proceeding. But I think, you know, we really
21 have to harp on again until we can get the
22 data, it's hard to really move forward in any
23 capacity.

24 I think the last thing with regard
25 to video calling services I know GTL had
26 asked for -- asked for a ruling fairly early
27 as to whether or not the Commission has
28 jurisdiction. And I'm sure we might get into

1 this later. You know, that might be
2 important. But as outlined in the -- in
3 the -- in your Honor's decision with regards
4 to the motion to compel, you know, it's hard
5 to really tell if this is within jurisdiction
6 because again we requested information and we
7 haven't gotten it in a lot of instances.

8 So I think that's kind of where
9 we're at with a lot of this. And again, just
10 harping on our ability to collect data at
11 this point. Thank you.

12 ALJ FOGEL: Thank you.

13 Yeah, we'll discuss the
14 confidentiality claims issue a little bit
15 later, but thanks for your comments.

16 I'll go on now to Mr. Paul Goodman
17 with the Center for Accessible Technology.

18 State and spell your name as you get
19 started and make sure you are unmuted.

20 MR. GOODMAN: Thank you, your Honor.

21 Can you hear me okay?

22 ALJ FOGEL: Yes, we can.

23 MR. GOODMAN: Good. Thank you.

24 Paul Goodman, P-a-u-l,
25 G-o-o-d-m-a-n, with the Center for Accessible
26 Technology.

27 We share Cal Advocates' position
28 that they've just stated. And therefore, I

1 won't spend time repeating them. I did want
2 to -- excuse me -- directly address the
3 provider's request for delays. I think while
4 Cal Advocates, CforAT does not see a need to
5 pause for quite a number of issues, one
6 certainly is service quality. And definitely
7 as we stated in our prehearing conference
8 statement there are a host of disability
9 issues to look at.

10 There is also, I think, in terms of
11 incarcerated individuals' disabilities and
12 outstanding rate issues which is that quite
13 frequently incarcerated individuals have a
14 disability. They're deaf, but their family
15 members or networks do not use sign language.
16 So you have to bring in the sign language
17 interpreter to translate, if you will. And
18 that interpretation or, you know, video relay
19 service takes additional time.

20 So if you're billing on a
21 minute-by-minute basis, those individuals
22 actually end up paying more because some
23 percentage of their time is spent in that
24 interpretation process. I think that's
25 definitely something that needs to be
26 addressed.

27 We do believe that video calling
28 needs to be addressed. And as we stated in

1 our prehearing conference statement, we think
2 that it should be addressed early but does
3 not necessarily need to be addressed before
4 anything else. Additionally, CforAT is
5 really interested in exploring using Lifeline
6 funds to help subsidize phone service for
7 incarcerated folks.

8 I know that issue has been raised in
9 proceedings at the Commission before. And as
10 I recall, there were some technical
11 obstacles, but I think it's definitely an
12 issue worth discussing.

13 Finally, I just wanted to respond to
14 two comments made by the providers in their
15 prehearing conference statement. And I think
16 -- I know they were specifically in detailed
17 comments. First, the detailed comment that
18 "Oh, we need to bring all stakeholders to the
19 table. We need to bring folks that run the
20 facilities in to talk here." This is an open
21 proceeding. It's a public proceeding. This
22 implication that somehow the Commission has
23 conducted this whole proceeding under the
24 cover of darkness and no one was able to find
25 out about it I think is just -- I don't know.
26 It's not the Commission's responsibility to
27 reach out to those folks to come participate.

28 The second is detailed argument

1 about jurisdiction. At least the way I
2 interpret it is it's a policy argument. It's
3 not a legal argument. They're really saying
4 that it's not whether the Commission can
5 regulate video calls. It's whether they
6 should talk about touch regulations, et
7 cetera. And certainly that's a policy that
8 is a question to have I think at least for
9 CforAT's position to question whether the
10 Commission can regulate video calls and
11 whether the Commission should regulate video
12 calls. The answer to both of those questions
13 are "yes," but I don't think in this instance
14 there's a compelling reason to halt it while
15 we discuss jurisdiction.

16 I'd be happy to answer any
17 questions.

18 ALJ FOGEL: Thanks. Thanks,
19 Mr. Goodman. I think you just answered my
20 question, but I'll ask it again. Your brief
21 seemed to indicate -- excuse me. Not your
22 brief. Your prehearing conference statement
23 seemed to indicate that the Center for
24 Accessible Technology was recommending filing
25 of briefs, almost first thing that occurs in
26 Phase 2. And that seems to differ from, for
27 instance, Cal Advocates' position that, you
28 know, some of the information and video

1 services that could be -- would be discovered
2 through the discovery process would be
3 helpful to inform the jurisdictional
4 questions.

5 Are you agreeing with Cal Advocates
6 at this point that inviting briefs on the
7 jurisdictional question after allowing for
8 some period of discovery that includes
9 discovery on video services, calls, and how
10 bundles, contract, et cetera, related phone
11 calls would be?

12 MR. GOODMAN: Yes, Your Honor. I'll be
13 the first to agree that our prehearing
14 conference statement was really inartfully
15 (sic) written. Our point was really that
16 jurisdiction is something that's going to
17 have to be addressed. But again, it is going
18 to be fact-specific and it's going to be
19 contemporary.

20 ALJ FOGEL: Okay. All right. Thank
21 you for that clarification. I don't believe
22 I have any specific other questions at this
23 time.

24 Let's move on to Ms. Brenda
25 Villanueva representing The Utility Reform
26 Network.

27 State and spell your name as you get
28 started.

1 MS. VILLANUEVA: Yes. Thank you, your
2 Honor. Good morning. Brenda Villanueva,
3 B-r-e-n-d-a. Last name is
4 V-i-l-l-a-n-u-e-v-a. Thank you, Judge. I
5 will get started.

6 You know, TURN commends the
7 Commission for the interim belief decision in
8 Phase 1 and looks forward to several
9 phases -- excuse me, several -- a lot of work
10 in Phase 2. We provided a lot of suggestions
11 in our prehearing statement. And I will
12 highlight just a few. A lot of them have
13 been already reiterated by my fellow panel.

14 The first one is, you know, the
15 Commission laid out a great foundation for
16 voice communication, but we're suggesting
17 that in Phase 2 the scope including tools to
18 setting address. Certain other issues that
19 weren't touched on in Phase 1; for example,
20 service quality and accents, some of which
21 has already been mentioned so I won't belabor
22 the point. But also we want to highlight the
23 need to look at the impact on black and brown
24 families in the incarcerated and detention
25 systems. And, you know, this will consider
26 things like whether one-size-fits-all
27 approach that's adopted really gets to the
28 needs of these vulnerable populations and the

1 other ones that have been mentioned
2 especially those folks that would communicate
3 with disabilities. And also this would be a
4 really natural step for the Commission's ESJ
5 work specifically on for voice
6 communications.

7 And similarly in Phase 2, we also
8 suggest to consider a non-voice communication
9 and building on what the decision said last
10 time. And this would include, you know,
11 video communications, as already mentioned
12 text and e-mail. We would suggest that this
13 include the rates, the terms and conditions,
14 also the service quality for any services and
15 access. And again, my fellow panelists have
16 already kind of touched on the interplay
17 between in-person visits or voice phone calls
18 versus these other non-voice communication
19 services.

20 And we also agree with Cal Advocates
21 that we should wait for a little bit more
22 time for discovery before stepping in and,
23 you know, putting maybe orally briefs on
24 jurisdiction issues. And actually, the term
25 would go probably a step further and suggest
26 touching on processes a little bit suggest a
27 workshop where we draw out more details of
28 just how the networks are set up to provide

1 these non-voice communication services.
2 Because as, you know, others have mentioned a
3 lot of this jurisdiction issue involved the
4 facts. And that is what is -- you know, the
5 record could be developed a little more on
6 the non-voice communications and how they're
7 set up and provided because it may vary a
8 little bit between, you know, larger systems,
9 smaller systems. And these are things that
10 are natural feelings for our workshop.

11 And just to touch on processes a
12 little bit, we support also a separate
13 workshop on service quality issues and access
14 but specifically to hear from, you know,
15 those professionals, from stakeholders who
16 are very familiar with the actual endusers of
17 these services so that you can see the impact
18 of what -- what is service quality on this.

19 You know, this could also invite
20 actual, you know, people from the public
21 through a second PPH in this proceeding
22 because the first PPH was more targeted to
23 the rates and the fees and wasn't exactly
24 asking on service quality issues. And I
25 think this is a really great -- a great
26 opportunity to do that right now.

27 And as far as just a response
28 quickly to comments made about the data

1 collection and so forth, you know, we
2 disagree with the suggestion that this
3 proceeding be delayed extensively in order to
4 figure out what this data collection analogy
5 should be. Perhaps maybe a brief discussion
6 or ruling on this could be -- could be had.
7 But we're very concerned that this will
8 derail the momentum had and, as my panelists
9 mentioned earlier, the sense of urgency on
10 that we have here. And also I want to just
11 state that this Commission has a lot of
12 experience in working with desperate cause
13 from different carriers. And so this isn't
14 the first time where it needs to kind of
15 consider various inputs.

16 And then the last point I will make,
17 you know, obviously a Phase 2 involves
18 several complex issues. You know, TURN looks
19 forward to collaborating with all intervenors
20 and stakeholders. And, you know, as I
21 mentioned earlier, we would welcome
22 representatives from the correctional
23 facilities. We welcome them to join in
24 Phases 1 and we welcome them to join us in
25 Phase 2 because it will be important to hear
26 the perspective.

27 And with that I'll stop there in
28 case there is any questions, your Honor.

1 ALJ FOGEL: All right. Thank you,
2 Ms. Villanueva. Or I should say Miss, I
3 believe.

4 Yeah, I do have a question. I think
5 it's interesting what you're saying about the
6 method on data. I hadn't really been seeing
7 it as developing that more thoroughly as
8 derailing but something that could take a
9 long time. I guess what I'm hearing you
10 saying is perhaps a simpler instruction in a
11 ruling regarding format could address some of
12 the issues. And certainly with regards to
13 the data requested through the discovery
14 process, that should go on and should move
15 ahead.

16 Am I understanding you correctly?

17 MS. VILLANUEVA: Well, yes. And I'll
18 just refine that for the last part is. We
19 actually have a suggestion we made in the
20 prehearing -- in our prehearing statement
21 submitted was to undertake -- for the
22 Commission to undertake putting together a
23 portal with a protective order perhaps and
24 just, you know, to facilitate this -- this
25 work and maybe even speed up the process a
26 little bit. That's one thing I'm not sure
27 that has been mentioned, but it was mentioned
28 during the first prehearing conference. And

1 honestly, we've seen -- I mean, you've seen
2 folks, you know, say this a little bit
3 already, but we've seen it. It's been -- you
4 know, it's quite the exercise to get the
5 needed data and then do the rest of the work.
6 So perhaps the portal with a protective order
7 would be helpful here.

8 ALJ FOGEL: Okay. Thank you for that.

9 Commissioner, do you have any -- I'd
10 like to take a short bio break.

11 MR. RAHER: Your Honor, I just -- I do
12 believe --

13 ALJ FOGEL: Excuse me. Sorry to
14 interrupt, Mr. Raher. If you could please
15 state your name again as you get started.

16 MR. RAHER: Stephen Raher for Prison
17 Policy Initiative.

18 I believe I was supposed to be
19 before Ms. Villanueva on the list. So I
20 believe I was --

21 ALJ FOGEL: I'm sorry. I did miss you.
22 My apologies.

23 Before we go to you, Mr. Raher --
24 and I'm very sorry about that -- I would like
25 to take a short break. I have --

26 Let's go off the record.

27 (Off the record.)

28 ALJ FOGEL: We are on the record.

1 And please go ahead, Mr. Raher, and
2 introduce yourself.

3 MR. RAHER: Thank you, your Honor.

4 This is Stephen Raher for Prison
5 Policy Initiative. The name is spelled
6 S-t-e-p-h-e-n. Last name is R-a-h-e-r.

7 And with the luxury of -- regarding
8 last time, the luxury of just echoing some of
9 the comments made by our colleagues and
10 filling in a few gaps. Based on my
11 understanding of the procedure today, I won't
12 talk about sequencing and non-party
13 participation because I think we're talking
14 about that later.

15 So in terms of scope, as you're
16 aware the jurisdiction over non-phone
17 services is critical. That has been well
18 briefed at several phases of this
19 participation -- of this proceeding. And I
20 see it as sort of legal issues and factual
21 issues. In terms of the law, there are some
22 facts needed to determine jurisdiction as
23 other parties have mentioned. We very much
24 appreciate your Honor's ruling earlier this
25 week on the Public Advocates' motion to
26 compel. Because that ruling came so
27 recently, it still remains to be seen whether
28 the carriers will honor discovery requests

1 from parties other than the Public Advocates.

2 So it would be helpful for a more
3 general order that clarifies the ability of
4 all parties to seek the same type of
5 discovery that Cal Advocates. And that
6 would, you know, possibly prevent unnecessary
7 motion practice. In terms of the facts,
8 again to reiterate Ms. Tylek's comments,
9 phone contracts are critical, critical part
10 of the data collection. So even if we
11 obviously take a broad view of jurisdiction
12 but even if the Commission disclaims
13 jurisdiction over certain services, the
14 extent of those services are offered under a
15 bundled contract and there are common
16 expenses that are allocated among the
17 services that the data on those expenses is a
18 critical component for setting rates on the
19 regular services.

20 In terms of collecting data and how
21 many months you need I'll shy away, if your
22 Honor will allow, from offering a specific
23 number of months. I tend to be of the
24 opinion that we don't need to delay things to
25 collect an enormous amount of data on
26 calling, but what we do need are the new
27 contracts or the congressional amendments
28 that implemented the interim rate order.

1 And on that issue, I would reiterate
2 Ms. Villanueva's comments on the utility of a
3 shared data repository. I think that would
4 save time and a half for public interest
5 parties requesting proceeding discovery and
6 carriers having to respond to multiple
7 discovery requests.

8 And the final very small issue just
9 to respond to -- or to echo something
10 Mr. Merrill said about dropped calls and to
11 bring up a small part of our prehearing
12 statement, you know, the last time I looked
13 at the video terms of service for the
14 carriers, at least one of them just claimed
15 refunds for any dropped video call regardless
16 of purpose. So even whether dropped calls
17 are common or not, I think reviewing those
18 types of terms and showing whether that's
19 even permissible in the first instance is a
20 viable or important part of Phase 2.]

21 ALJ FOGEL: Thank you, Mr. Raher. I am
22 sorry. If you wouldn't mind repeating what
23 you just said about service quality and
24 dropped calls, that would be helpful.

25 (Crosstalk.)

26 MR. RAHER: Mr. Merrill brought up the
27 example of a caller who -- said their call
28 was dropped and it was just too much of a

1 hassle to pursue a refund. And for my -- as
2 I read the terms of service, at least one of
3 the carriers just said you can't get a refund
4 no matter why your call was dropped. And I
5 think, you know, there's the issue of how
6 common is this? And that's important. But
7 there's also the issue of what should the
8 contractual provisions be in the first place.

9 ALJ FOGEL: Great. I have several
10 questions. I'll go ahead.

11 But, Commissioner, if you'd like to
12 ask some questions, please do. Just let me
13 know.

14 I'd like to move now to talking with
15 -- discussing the schedule and the need for
16 evidentiary hearings and the categorization.
17 I believe that the same categorization of
18 ratesetting is appropriate to continue, and
19 so that is our intention I believe. If a
20 party would wish to object to that, we can do
21 so during this period.

22 But moving on to some of the issues
23 that were raised earlier, I'd like to raise
24 the issue of the data portal and the
25 confidentiality, sort of, it's a key issue.
26 I will say that I did notice the requests for
27 data portal in many of the prehearing
28 conference statements. I have started to

1 explore what the options might be at the
2 Commission for that. I don't have any
3 answers yet, but that is something I'm
4 looking into.

5 I would also like to ask if -- the
6 providers another opportunity or option if
7 that is not feasible for some reason could be
8 for the providers to provide on their
9 websites a protected portal that is available
10 just to intervenors, and I'm curious. I
11 would like to hear from the providers if that
12 would be something they could have done in
13 the past or could consider doing now.

14 And the idea is to establish a
15 password-protected portal that only
16 intervenors with nondisclosure agreements in
17 place have access to and that all intervenors
18 could have access to the same data.

19 So if the providers could provide a
20 quick response to that, I would appreciate
21 that.

22 I would like to call on Ms. Collins
23 first.

24 MS. COLLINS: Yes. Angela Collins on
25 behalf of GTL. That could be possible. I
26 know that when we shared data with the
27 Communications Division, they use the
28 Kiteworks or Accellion file share programs.

1 So there may be a way to use a file share
2 program for datas uploaded to folders, and
3 you can only obtain access via password. The
4 Federal Communications Commission uses
5 something similar to disseminate confidential
6 data as well in the era of COVID when they no
7 longer give out hard copies of confidential
8 data. So I do think that could be possible.

9 ALJ FOGEL: Okay. Thank you. I am
10 familiar with the Kiteworks file transfer
11 protocol systems and that maybe could work
12 here as well.

13 Ms. Acocella?

14 MS. ACOCELLA: Yes. Joanna Acocella.
15 Yes, there is certainly mechanisms and
16 protocols that we can utilize and have done
17 before and (inaudible) that can be done
18 (indecipherable). Obviously it doesn't
19 address the collection issues but absolutely
20 (inaudible) and be done.

21 ALJ FOGEL: Okay. Thank you.

22 And, Mr. Petro, do you care to
23 comment on that?

24 I'm sorry. Am I difficult to hear?

25 Let's go off the record.

26 (Off the record.)

27 ALJ FOGEL: We're back on the record.

28 We were discussing responses

1 regarding providers providing secure portals
2 to shared data on their websites.

3 Ms. Acocella, you were speaking.

4 MS. ACOCELLA: Joanna Acocella --

5 ALJ FOGEL: I am sorry. You are --

6 Off the record, please.

7 (Off the record.)

8 ALJ FOGEL: On the record.

9 Ms. Acocella?

10 MS. ACOCELLA: Yes. Joanna Acocella.

11 I was indicating that it is possible to share
12 files in a secure fashion accounting for
13 confidential and other matters that need
14 (inaudible) on the back end. We've done that
15 both with state parties as well as with the
16 FCC.

17 It does not address obviously all
18 the data collection concerns that we have.
19 But it certainly can be done from a technical
20 aspects so that everyone has access, yes.

21 ALJ FOGEL: Thank you.

22 Mr. Petro, would you care to comment
23 on this issue as well as providing access on
24 the NCIC inmate communications website a
25 possibility? Would you say at this stage you
26 have any thoughts on that?

27 MR. PETRO: Lee Petro. I don't have
28 any direct knowledge of whether they've done

1 it in the past. I can certainly check and
2 get back to you.

3 But, you know, we certainly have
4 shared data in several state proceedings and
5 with the FCC over the years. So making the
6 information available, you know, should not
7 be an issue.

8 ALJ FOGEL: Okay. Thank you.

9 We will consider that in just a
10 minute, Ms. Collins. Well, go ahead if you
11 could.

12 MS. COLLINS: Angela Collins. I just
13 wanted to follow up though that maybe that
14 you're not aware that when data has been
15 shared in the past, it's been shared with
16 intervenors and with the government officials
17 but not between the parties.

18 ALJ FOGEL: Yes.

19 MS. COLLINS: That has always been a
20 method that the individual providers do not
21 see each others' confidential data.

22 ALJ FOGEL: Exactly, yes. Thanks for
23 that clarification. That was my
24 understanding as well. And it could be as I
25 believe you said, Ms. Collins, that the
26 Commission's FTV Kiteworks system works well.
27 There could be another system, but I just
28 wanted to touch on that briefly if those

1 don't work out well.

2 I did notice with some concern that
3 the discussions from intervenors regarding
4 confidentiality and over marking of -- claims
5 over marking of information as confidential
6 and that's far in the discovery process. And
7 so I would like to clarify right now and --
8 that the providers are expected to and
9 directed to provide responses to discovery
10 including requests for discovery relating to
11 video calling services as well as some of the
12 other services that have been mentioned here:
13 tech services and e-mail messaging services.

14 As has been stated here, bundling of
15 those services is certainly relevant
16 regardless of how the Commission rules or
17 decides on the jurisdictional question.

18 So I do want to clarify that
19 providers are expected to provide -- respond
20 to discovery requests that go beyond the
21 simple voice calling services that we've been
22 asking about and that were included in the
23 first decision's rulemaking.

24 Yes, just a minute, Ms. Tylek.

25 I also want to clarify that the
26 Commission has spelled out confidentiality
27 rules. Most relevant for this proceeding is
28 General Order 66-D. And we do expect that

1 the providers will very carefully review our
2 confidentiality claim requirements and be
3 very -- very -- just narrowly claim
4 confidentiality in a way that corresponds to
5 our rules and requirements. We do not want
6 to see broad claims of confidentiality. We
7 have very specific rules regarding what
8 information can be considered confidential
9 and what is not, and we do expect the
10 providers to carefully review those rules and
11 apply them in their response to discovery
12 requests. And, of course, all of these two
13 -- this guidance here, both of these are --
14 of course, should be made also with any
15 appropriate claims of privilege. So I'm sure
16 you'll do that as you see fit. But that
17 would also apply here.

18 Now, are there any questions
19 regarding that?

20 Ms. Tylek, I know you had your hand
21 up.

22 MS. TYLEK: Thank you. Bianca Tylek
23 for California -- (inaudible) Coalition. I
24 just want to make two quick points, Judge.
25 One with regard to all of the marked
26 confidentiality. One has to do -- well,
27 confidentiality --

28 ALJ FOGEL: Excuse me. Sorry to

1 interrupt. You are quite difficult to hear.

2 Let me go off the record.

3 (Off the record.)

4 ALJ FOGEL: Back on the record.

5 Please continue, Ms. Tylek.

6 MS. TYLEK: Thank you. So I'll just
7 repeat. Bianca Tylek for the Californian for
8 Jail Phone Justice Coalition. I just wanted
9 to raise two quick points around data
10 collection and -- on the confidentiality
11 issue.

12 The providers have been particularly
13 broad as you said, like, with regard when
14 doing confidentiality for the FCC.
15 Particularly one thing I do want specific
16 attention to is contracts. Contracts are
17 public record. They are accessible to
18 (indecipherable) open records required.
19 These are not confidential documents, and
20 they have historically been marked by
21 corporations, that is, as confidential. So I
22 think it would uphold to being some very
23 explicit documents that should be made
24 available so that we can, you know, be clear
25 about what (inaudible) overreaching in the
26 past.

27 And the second quick point I wanted
28 to make is in terms of the way in which data

1 is provided. I really encourage the
2 Commission to provide some instructions to
3 the vendors about the way that the documents
4 are provided to the public records. Not
5 only, you know, maybe available on the site
6 for the intervenors. But also historically,
7 again, we have been a -- privy to
8 confidential documents in the past, and the
9 providers made it particularly hard to
10 actually review those documents by turning a
11 simple, you know, 20 page or 50 page PDF
12 contract into 50 individual images. So
13 really justifying that they should be
14 protected in their original format as word
15 documents or PDF rather than transformed into
16 (indecipherable) files or JPEGs or
17 (indecipherable) or whatever else to make it
18 difficult for us to either search those files
19 and see them. We would just really
20 appreciate the Commission's instruction to
21 these vendors.

22 ALJ FOGEL: Thank you, Ms. Tylek.

23 On that note, I will note that one
24 of the intervenors did mention the issue --
25 perhaps it was you -- of the public documents
26 and suggesting a portal that's publicly
27 available for documents that would normally
28 be considered available under a Public

1 Records Act request. And I will -- we are --
2 I did note that, and that's something we will
3 also be looking into with our Division.

4 But I will agree with Ms. Tylek and
5 direct the providers to be sure when you are
6 providing -- when the discovery request is
7 for a document that would normally be
8 available on a Public Records Act request as
9 a government contract or other government
10 document, that should be provided on a
11 non-confidential basis to the -- in response
12 to discovery requests.

13 And I will also note that as we go
14 forward on confidentiality if there are
15 additional issues such as the one you
16 mentioned, Ms. Tylek, about separation of
17 documents into 20 individual documents rather
18 than one with the original document, please
19 intervenors should raise to me or us through
20 a motion any concerns or obstacles you are
21 finding, and we can address them in that way.
22 Okay. So that's the data issue.

23 And I will say that just to respond
24 to -- okay. So let's -- one question I'd
25 like to ask is with regards to the FCC's
26 methodology that I believe Ms. Acocella
27 stated was going to be finalized by the FCC
28 October 26th.

1 Is that something that other parties
2 would say would be valuable for this
3 Commission to look at that format and
4 instructions in any way either for filing of
5 data with regards to a permanent rate or with
6 regard to, sort of, standardizing responses
7 to discovery requests? Is that something we
8 should be considering?

9 MS. ACOCELLA: Joann Acocella. I think
10 so. I think what's important to note here is
11 not suggesting that it is necessarily the
12 only answer; right? Just that they have
13 learnings that they have accumulated from
14 their first round of data collections that I
15 think would be inciteful and could help speed
16 up the process.

17 We've spoken a fair bit today about
18 the need to, you know, sort of, balance the
19 need for the complexities of collecting the
20 data in a comparable fashion without slowing
21 the process totally; right? And I think
22 taking advantage of some of learnings that
23 the FCC did from its first round of data
24 collection and seeing where they found a path
25 to do something different and looking at the
26 methodology changes that they implement on
27 the -- you know, that they announce on
28 (indecipherable) would be instructive and

1 helpful.

2 So given that that is what's coming,
3 I think it could be a value to this process
4 even if you choose to follow a different
5 path.

6 ALJ FOGEL: Would any other parties
7 like to comment on that?

8 Yes, Ms. Tylek.

9 MS. TYLEK: Yeah, I'll agree actually
10 on that that I think it will be instructive
11 and helpful. But I, you know, just want to
12 encourage the Commission again to use it as
13 one of the many sources in its methodology
14 and not as a single source. So -- but I
15 think there's obviously no harm in learning
16 from what other commissions or regulatory
17 agencies have learned in this regulatory
18 process, you know, over the years of their
19 own regulation. Certainly I think using,
20 collecting, reviewing, analyzing some of the
21 that data. But, again, making it one of the,
22 you know, many pieces of data that the
23 Commission incorporates into its methodology.

24 ALJ FOGEL: Great. Thank you.

25 Any other --

26 Yes, Ms. Collins.

27 MS. COLLINS: Angela Collins, GTL would
28 agree that looking to the FCC process would

1 be helpful. However, we don't believe that
2 that will be issued by the end of October
3 given the paperwork requirement approvals
4 that are needed at the federal level. So it
5 may be somewhat after that time.

6 ALJ FOGEL: I see.

7 (Crosstalk.)

8 MS. COLLINS: -- drafts released. It
9 may take a few months for it to be finalized.
10 Due to the federal (inaudible) approval
11 requirements.

12 ALJ FOGEL: Thank you for that
13 clarification.

14 I'd like to move on to some broader,
15 sort of, questions and discussion about, kind
16 of, work that can occur concurrently,
17 simultaneously as we go forward. And I do
18 want to extend my appreciation to
19 Ms. Villanueva who mentioned the importance
20 of workshops. Particularly smaller, less
21 intimidating, more informal workshops to
22 offer opportunities to gather information in
23 this case.

24 I did note several workshops topics
25 that you suggested and others that would seem
26 logical based on other parties' comments.
27 And I want to identify those here.

28 Ms. Villanueva, I think you

1 mentioned the workshop on special needs of
2 juveniles, incarcerated juveniles. Of
3 course, many of us have talked about the
4 special needs of incarcerated persons or
5 their supporters with disabilities.

6 We have also issues affecting all
7 endusers service quality, non-rate terms and
8 conditions, privacy provisions were
9 mentioned, I believe, by the Prison Policy
10 Institute in your prehearing conference
11 statements.

12 And I believe, Ms. Villanueva, you
13 also mentioned the having a discussion to
14 understand how bundling occurs and provisions
15 of bundled services occurs and hearing a
16 little bit more about professionals and/or
17 the endusers.

18 And then, of course, Ms. --
19 Commissioner Guzman Aceves did mention some
20 of the funding -- alternative funding sources
21 as a potential area of workshop or record
22 development. So I do have -- those are a
23 number of areas there.

24 I think at this time what I'd like
25 to invite comment on is this concept of
26 moving ahead with workshops concurrently
27 while discovery is occurring on both video
28 calling services and non-voice -- non-purely

1 voice services. You know, I see the two,
2 sort of, tracks could proceed. Discovery
3 related more specifically to rates and costs
4 and so on, and then workshops occurring
5 concurrently. I'd like to ask parties if
6 they would see that as possible as well and
7 what areas you might see as priorities for
8 workshops to occur first to more formally
9 gather information that way.

10 I'll go ahead and start if I could
11 with -- since you recommended this,
12 Ms. Villanueva, I would like to start with
13 you if you don't mind.

14 MS. VILLANUEVA: Yes. Thank you, your
15 Honor. And, yes. As you can see, there are
16 several issues that are important here. One
17 not mentioned I think in the comprehensive
18 list was the workshop to -- on the network --
19 the infrastructure that supports these
20 services, this voice or non-voice
21 communication services. Because these are
22 important facts that will help inform several
23 things including jurisdiction questions. So
24 with that, I think actually that is a
25 workshop that can -- probably should occur
26 earlier in the process than others I would
27 say if there was, like, a priority. Because
28 I think especially that one can happen at the

1 same time as the discovery and the data
2 collection work is happening. It all, kind
3 of, feeds together, and it would be really
4 helpful to know those facts. I think Cal
5 Advocates mentioned specifically.

6 And then the other pieces -- you
7 know, I guess, when we were thinking about
8 these -- all these -- we see these as
9 vulnerable populations; right? The juvenile,
10 the immigration -- excuse me. The immigrant
11 population, you know, the folks with a
12 disability (inaudible) needs. And so
13 thinking, like, if there was a set of
14 workshops to bring in those professionals
15 that serve, that support the populations that
16 are detained and can reflect on how these
17 services impact their ability to provide the
18 support either for the families outside or
19 for the loved one inside.

20 And so I think perhaps -- and we saw
21 this through more of an equity lines. So
22 that, you know, building on the Commission's
23 ESJ work that this is data gathering that is
24 needed so that the Commission can then take a
25 step back and think what does it need to do
26 from an equity perspective to really serve
27 the needs of the various different vulnerable
28 populations.

1 ALJ FOGEL: Thank you for that. That's
2 really -- that's really -- that's a really
3 good point all of those. I just wanted to
4 ask one clarifying question about the --
5 about workshops more generally.

6 I know we have not at the Commission
7 gotten any additional staff to support this
8 proceeding. And so workshops, I think, to be
9 successful we will need to rely -- staff will
10 need to rely very, very heavily on parties to
11 identify potential speakers and so on. I
12 wanted to just ask if you or others at TURN
13 would be available to provide that assistance
14 and be very actively involved and to develop
15 workshops?

16 MS. VILLANUEVA: Absolutely, your
17 Honor. We have been blessed with the
18 opportunity to work with various stakeholders
19 already that are actually not parties to the
20 proceeding that have been very involved in
21 various facets of -- in the State and
22 externally as well. And we are happy to --
23 just like we did with the public
24 participation hearings -- be very active and
25 facilitate those conversations, identify, you
26 know, the right folks that need to be at the,
27 you know, at the table and providing
28 information to the Commission. So we welcome

1 the opportunity.

2 Thank you.

3 ALJ FOGEL: Thank you.

4 And just on the first concept, which
5 I didn't see drawn out too much in the
6 prehearing conference statements about the
7 potential of a workshop looking at network
8 infrastructure that supports both voice and
9 non-purely voice services. Is the concept
10 there to look at that? If you can draw
11 little more what the concept is for that
12 workshop?

13 COMMISSIONER GUZMAN ACEVES: Judge
14 Fogel, can I ask a followup to that?

15 ALJ FOGEL: Please.

16 COMMISSIONER GUZMAN ACEVES: Is it that
17 you would recommend in this, this be more of
18 a presentation by the carriers on what their
19 networks look like? Or what is the point
20 that you're proposing?

21 MS. VILLANUEVA: I think it could take
22 a number of formats. I think that
23 presentation of carriers just so that they
24 can explain how -- you know, especially like
25 the voice communications services are set up.
26 Because it does -- you know, for those -- for
27 us that are more keen on infrastructure
28 nitty-gritty details, it does matter.

1 And so for us to advocate to the
2 Commission, these presentations will be
3 helpful. Perhaps if there is an opportunity
4 to do some followup questions or present
5 question to answer. And then, you know,
6 parties are ready to, kind of, provide
7 feedback. Perhaps something like that. You
8 know, there's various ways to, kind of, put
9 this together.

10 And, again, TURN is happy to
11 provide, you know, the infrastructure, focus
12 kind of support as well in our subject matter
13 expertise on some of this too. That would be
14 helpful.

15 ALJ FOGEL: Thank you. Very good.

16 I think I'll go ahead since we've
17 started with Ms. Villanueva at the end go
18 backward down our list.

19 Mr. Raher, if you would like to
20 comment on the question of priority workshops
21 and more generally on the schedule,
22 categorization, need for evidentiary hearing,
23 et cetera?

24 MR. RAHER: Thank you, your Honor.
25 Yes, I -- we believe that (inaudible)
26 workshops concurrent with discovery makes
27 plenty of sense.

28 There are -- you know, generally

1 there are a lot of -- there are so many
2 internal related complex issues in this
3 proceeding that I think, you know, different
4 tools and maybe even different timelines will
5 have to be deployed I think in the interest
6 of this -- not judicial economy, but the
7 administrative economy. You know, perhaps
8 these -- these tracks could go along, and I
9 would suggest one consolidated final order on
10 most of these issues.

11 In terms of the types of workshops,
12 I agree. I think something on network
13 infrastructure would be very helpful along
14 the lines of what Ms. Villanueva said. I
15 think hearing from endusers about service
16 quality issues would be important.

17 And to go back to some of the very
18 earlier comments from the carriers about law
19 enforcement-type commissions, you know, we
20 agree that, you know, the more information is
21 brought into the proceeding, the better.
22 That includes the facility, the
23 administrators. But if the sheriffs and the
24 administrators want a voice in this
25 proceeding, I think they should give
26 something in return. And specifically we
27 need site commission -- the data on revenue
28 and expenditures in a standardized format.

1 And so I would suggest that along
2 with the data collection on carrier expenses,
3 that staff look at a standardized reporting
4 system for site commission revenue and
5 expenses. And then any jurisdiction that
6 charges site commissions would have to then
7 submit data in that standardized format in
8 order to (inaudible).]

9 ALJ FOGEL: Okay. Yes.

10 Certainly, the standardized
11 reporting for that would be helpful. Of
12 course, we -- the Sheriffs' -- the California
13 Sheriffs' Association, and any Sheriff's
14 organization, is more than welcome to join as
15 a party at any time. So, appreciate that.

16 And, yes, I agree that -- I think
17 really we're talking about two streams, not
18 two tracks. And I am envisioning a
19 consolidated file order, or orders, in this
20 phase.

21 Okay. Moving on to Mr. Goodman, if
22 you would like to comment on the scheduling,
23 categorization, need for evidentiary hearings
24 at this stage.

25 I'm sorry, Mister -- off the record,
26 please.

27 (Off the record.)

28 ALJ FOGEL: Let's be on the record.

1 And please go ahead, Mr. Goodman.

2 MR. GOODMAN: Thank you, your Honor.

3 Paul Goodman with the Center for
4 Accessible Technology. CforAT would support
5 contemporaneous workshops and discovery. I
6 think the two actually inform each other
7 sometimes. And workshops are very helpful to
8 really narrow the issues and narrow the
9 factual debates.

10 CforAT would absolutely be
11 interested in assisting organizing workshops.
12 Given our expertise and our capacity, that
13 would likely be limited to a workshop about
14 incarcerated persons with disabilities. But
15 to the extent we could help with other
16 workshops, we would certainly be eager to do
17 so.

18 ALJ FOGEL: Thank you for that, Mr.
19 Goodman.

20 Mr. Merrill, from California Public
21 Advocates, would you like to comment on the
22 scheduling issues?

23 MR. MERRILL: Yes. Scott Merrill, Cal
24 Advocates.

25 I think just with regards to the
26 workshops, I think, you know, we always look
27 forward to, you know, the opportunity to
28 learn more about individuals using these

1 services. So it's kind of like the PPHs, the
2 Public Participation Hearings. In Phase I,
3 we learned a lot about, you know, the
4 end-user experience in those hearings. And I
5 think that's always really important.

6 You know, obviously, you know, at
7 the end of the day, the way -- you know, rate
8 relief is the way that we can help these
9 individuals the most. And, obviously, we are
10 doing that. So, in so far as it doesn't, you
11 know, slow down that track, I think, you
12 know, we would definitely be interested in
13 all this.

14 You know, I think particularly with
15 regards to the when we talk about the
16 jurisdictional workshop, that could be
17 interesting. As we discussed, you know,
18 wanting more information specifically about
19 video-calling services, I think our team
20 would be interested in the infrastructure
21 one.

22 And I think we would also be very
23 interested in hearing more about the
24 experiences of individuals with disabilities
25 and their use of a lot of these technologies.
26 So I think all those are very interesting.

27 I know in your initial comments you
28 had also partially talked about evidentiary

1 hearings. And I had kind of spoken on that
2 before. You know, if -- as we go through the
3 process, if there is some kind of contested
4 issue of fact with regards to the information
5 that we're giving, obviously that would be
6 particularly important. But until that
7 happens, I don't know that we necessarily
8 need one, but always keeping that option
9 open. So I think -- you know, we -- we're
10 open to both.

11 Thank you.

12 ALJ FOGEL: Thank you, Mr. Merrill.

13 Is --

14 COMMISSIONER GUZMAN ACEVES: Judge
15 Fogel?

16 ALJ FOGEL: Yes, please go ahead.

17 COMMISSIONER GUZMAN ACEVES: I
18 apologize for the interruption. I just
19 wanted to thank everyone. I do have to go
20 into a closed session, but I always
21 appreciate learning during these discussions
22 as well.

23 And I would ask that maybe as you
24 continue in your discussion, also look at the
25 kind of underlying question within some of
26 this, which is: Are we looking at both -- or
27 all the services, video techs, voice,
28 concurrently as we talk about things like

1 network? That makes a lot of sense as we
2 talk about service quality, makes sense from
3 one perspective, but interested in hearing
4 others.

5 And as we talk about anything, as
6 Mr. Goodman mentioned, if we focus on
7 disability issues, are we talking about all
8 of these services? I think we are, but I
9 just wanted to -- as you continue in your
10 discussion, if you can maybe elaborate on
11 that point.

12 And I certainly -- one of the most
13 atrocious things I learned today was on this
14 perverse component of a contract to restrict
15 in-person visits. And I certainly will be
16 taking a personal interest on that issue. I
17 just wanted to share that -- and for
18 informing me of that atrocious practice,
19 thank you all very much. And I look forward
20 to following up with you, Judge Fogel, and
21 discussing next steps.

22 ALJ FOGEL: Thank you, Commissioner.

23 Okay. Moving along, we were just
24 about to hear from Anne Stuhldreher with the
25 San Francisco Financial Justice Project, if
26 you are still here. And please go ahead if
27 you would like to comment at all on the
28 scheduling issues, or if you don't have

1 comment at that time, that's fine as well.

2 MS. STUHLDTREHER: Yeah. Thank you very
3 much, Judge. I do not have comment at this
4 time.

5 ALJ FOGEL: Thank you, Ms. Stuhldreher.

6 Okay. Moving on to Ms. Bianca Tylek
7 with The Californians for Jail and Prison
8 Phone Justice Coalition, if you would like to
9 comment on the scheduling issues, some of the
10 workshop questions I asked earlier, that
11 would be helpful.

12 MS. TYLEK: Thank you so much. Bianca
13 Tylek for The Californians for Jail and
14 Prison Phone Justice Coalition.

15 I just want to reiterate some of the
16 requests to really find ways to host
17 workshops with people who are most directly
18 impacted by these services, in particular,
19 families who are paying for these services,
20 but also people who are currently
21 incarcerated. As Ms. Stuhldreher mentioned
22 earlier, this is the population that we are
23 in large part regulating around. And they
24 have probably the least amount of access to
25 public hearings, to public participation in
26 this process.

27 So -- and I think one additional
28 thing to think about is that by definition of

1 exactly what we're regulating, they do not
2 have access to Webex in most cases. And so
3 thinking about workshops that may even be in
4 person, at a particular facility, or a few
5 facilities, or finding other ways that people
6 can participate from inside, you know, may be
7 really critical -- will be really critical in
8 this. So just want to mention that.

9 And I also want to echo in the --
10 some of the data points -- something that
11 Mr. Raher said, which is that it would be
12 very helpful to get data from the facilities
13 around commissions. If there was to be a
14 workshop around that, that would be another
15 way to have that discussion. But I do want
16 to, you know, just also appreciate your
17 Honor's comment that while we understand the
18 vendors would like, you know, their customers
19 to make comment, they have the ability to be
20 a party here if they wanted to.

21 So I think, you know, some of those
22 workshops, timing-wise, I don't think we have
23 much of a problem in terms of (inaudible).
24 Timing, obviously, the sooner we can get to
25 regulation, the better.

26 Thank you.

27 (Reporter clarification.)

28 MS. TYLEK: Regulation, the better.

1 Thank you.

2 ALJ FOGEL: Thank you, Ms. Tylek and
3 Karly.

4 Just on that note, it's -- I wanted
5 to take a small segue and just comment on the
6 issue of the incarcerated participating in
7 workshops or Public Participation Hearings.
8 We did work very, very hard to make that
9 possible in the Phase I of this proceeding to
10 allow for incarcerated persons to call in and
11 participate directly in the prehearing -- on
12 the Public Participation Hearings. There are
13 a number of logistical challenges, which are
14 very difficult, and which really prevented
15 our success ultimately. I think we had four
16 persons from incarcerated facilities
17 participate.

18 But I would like to -- I did note
19 your comment, Ms. Tylek, and would request
20 that if this is going to be possible, we need
21 input about three months before any event on
22 the specific logistical challenges and
23 specifically how those can be overcome. We
24 cannot -- we cannot overcome those at a
25 last-minute scenario. We'll probably need to
26 have a status conference and discuss the
27 issue of providers, et cetera.

28 So, just noting that if you are a

1 party or are working with individuals or
2 organizations that are knowledgeable on those
3 issues, we do need that information very,
4 very early in the process in order to support
5 that remote participation by the
6 incarcerated. Because we are not familiar
7 with those issues.

8 And, secondly, I don't know about
9 the possibility of workshops in incarceration
10 facilities. But I did note that suggestion.

11 Okay. So moving on to Ms. Acocella
12 with Securus Technologies, if you would like
13 to comment on scheduling issues.

14 MS. ACOCELLA: Yes, Joanna Acocella.

15 We're fine with the categorization,
16 that you maintain that one as standard.
17 We're okay with the concurrent workshops, the
18 data collection in the workshops and
19 (inaudible) --

20 THE REPORTER: I'm sorry, Counsel. I'm
21 having a great deal of trouble understanding
22 you. "We're okay with the concurrent
23 workshops..."

24 MS. ACOCELLA: Okay.

25 We're okay with the concurrent
26 workshops and data collection happening at
27 the same time. And we do ask that we think
28 through the prioritization of those workshops

1 to ensure that we can provide all the
2 resources necessary for the data and the
3 various workshops. Happy to volunteer to
4 support or engage in the construction of some
5 of those workshops, including if we were to
6 do something inside a facility.

7 Most of the individuals who called
8 in during the Public Participation Hearing
9 were, in fact, at facilities that we service.
10 And we're happy to do what we can to continue
11 to make that kind of engagement possible on
12 their part.

13 No outstanding questions or concerns
14 about the topics suggested.

15 ALJ FOGEL: Thank you very much, Ms.
16 Acocella. And your note about the
17 prioritization of workshops is a good one.
18 If you care to comment on that topic now, I
19 would be interested in -- to hear what you
20 had to say now. Otherwise, we could also
21 consider the parties work -- meeting together
22 offline and submitting a proposal for
23 suggested prioritization and/or timing, if
24 you would like to respond to either of those
25 points.

26 MS. ACOCELLA: Yes. I would like to
27 give that some additional thought to make
28 sure we have a list of, sort of, what is

1 being considered. And then we can lay out
2 some of the prioritization that's happening
3 there just to ensure that we can each give
4 our appropriate attention to the matter at
5 hand.

6 ALJ FOGEL: Okay. Thank you.

7 And thank you for your comment that
8 Securus could work to support in-person
9 workshops in incarceration facilities.
10 Appreciate that.

11 Moving on to Mr. Petro for NCIC
12 Inmate Communications, if you would like to
13 comment on the scheduling, need for
14 evidentiary hearings, and categorization of
15 this proceeding.

16 MR. PETRO: Sure. I think the -- or
17 Lee Petro, NCIC.

18 I think the categorization is fine
19 as Ratesetting. You know, at this point, I
20 don't see a need for evidentiary hearings.
21 But, you know, as other parties have said, if
22 the facts arise that warrant it, then, you
23 know, we'll entertain it at that point.

24 Certainly, I think with respect to
25 the workshops, coming up with a list, NCIC
26 would be happy to work with all the parties
27 on this call in proceeding to develop, you
28 know, a -- you know, a list of them and the

1 right priority. I know there was comment
2 about this being an open proceeding, and the
3 correctional facilities, you know, are always
4 welcome.

5 I -- you know, I think in this case
6 -- and, certainly, our -- you know, our
7 experience at the FCC is that, you know,
8 perhaps a little extra in reaching out to the
9 is Sheriffs to get their involvement would be
10 useful and provide them, you know, a
11 platform. They are very busy. They have
12 many things to deal with, including a
13 pandemic. And, you know, creating the right
14 atmosphere and environment for them to
15 participate, I think, would be welcome. So,
16 I -- I'll leave it at that.

17 ALJ FOGEL: Thank you, Mr. Petro.

18 And just to comment on that, I will
19 note that as the Judge in this proceeding,
20 there is little that I can do, other than
21 ensure that the appropriate entities receive
22 the Order Instituting Rulemaking. I do -- I
23 am aware that the staff and the
24 commissioner's office have both met with the
25 Sheriffs' Association and have both
26 encouraged them to become parties.

27 MR. PETRO: Okay.

28 ALJ FOGEL: So we will note that there

1 may be other opportunities to more
2 specifically invite them to participate in
3 workshops, and it's certainly something we're
4 considering.

5 MR. PETRO: Great. Thank you.

6 ALJ FOGEL: And, finally, Ms. Collins
7 from Global Tel Link, if you would like to
8 comment on the schedule, categorization, et
9 cetera.

10 MS. COLLINS: Thank you. Angela
11 Collins on behalf of GTL, as the other
12 providers have indicated, GTL would be happy
13 to participate in workshops, as well as help
14 facilitate incarcerated participation in
15 those workshops as needed.

16 Two comments on the workshops:

17 The infrastructure workshop, I'm not
18 quite sure what may be contemplated with
19 that. But that may need to have some
20 confidentiality surrounding it if we're
21 getting into specifics of -- of company
22 infrastructure and facilities. Typically,
23 that type of information is not subject to
24 public knowledge for security reasons -- and
25 not just inmate security, but overall
26 security.

27 And, secondly, the workshop on the
28 jurisdiction question could be viewed broader

1 as more than just inmate calling services.
2 To the extent the Commission is going to be
3 exercising jurisdiction over video calling, I
4 believe it was Securus that said in its
5 prehearing statement, that would include
6 things like this Webex we're on now,
7 Microsoft Teams, Google, et cetera. So to
8 the extent a workshop would be discussing the
9 Commission's jurisdiction over video calling,
10 that may need to be broader than just the
11 parties to this proceeding.

12 But, otherwise, GTL is happy to work
13 with the Commission and to help prioritize
14 the order of the workshops once we get more
15 information on what those topics are.

16 ALJ FOGEL: Okay. Thank you for that.

17 And, again, I will note that we do
18 have -- regards to confidentiality claims, we
19 do have General Order 66-D, as well as a very
20 informative recent decision in the
21 telecommunications space, not particular to
22 this Rulemaking, but you may want to take a
23 look at Decision 20-12-021 -- again, that
24 number is 20-12-021 -- which lays out some
25 considerations with regards to
26 confidentiality claims for other
27 telecommunications providers.

28 So I just wanted to get back to the

1 suggestion that I believe was made by Ms.
2 Acocella about, potentially, the parties
3 jointly developing a priority list and
4 schedule for workshops. I wanted to take
5 other comment on that.

6 Ms. Villanueva, I'll look to you
7 first, if that would be something you would
8 welcome or -- given that this, sort of, heavy
9 emphasis on workshops was your proposal.

10 MS. VILLANUEVA: I think we would
11 welcome the opportunity to come together.
12 But we would caution it not delay the work
13 here and that it be a quick, you know,
14 process, maybe a deadline to be met, perhaps,
15 so that this does not interrupt, you know,
16 action -- you know, we're not facing
17 Thanksgiving or Christmastime and the holiday
18 season and still trying to figure out, you
19 know, what is the -- a schedule that the --
20 to propose.

21 And so if there is a discussion
22 perhaps -- because there's been other
23 workshops suggested that were actually
24 outside of our original list, which is fine,
25 but I think it needs to be -- come together
26 very, very quickly so that the workshops can
27 actually be held this -- these coming months
28 before the Thanksgiving -- you know, the

1 Thanksgiving holiday.

2 ALJ FOGEL: Sure. I appreciate that
3 comment.

4 Would anyone else like to comment on
5 this concept?

6 If not, one thing I'm thinking might
7 be helpful is to direct parties to undertake
8 a meet-and-confer meeting with a deadline to
9 file a joint proposal probably even before we
10 issue the scoping memo. So that could
11 provide the opportunity for some input and
12 discussion, but also a deadline where we
13 could then move on -- move ahead and schedule
14 those workshops as soon as we could.

15 If there's any comments on that,
16 happy to listen.

17 Otherwise, I think if there's anyone
18 who did not --

19 Please go ahead, Ms. Villanueva.

20 MS. VILLANUEVA: Your Honor, thank you.
21 I apologize.

22 One piece that -- suggestion that
23 TURN made early on was for -- to consider a
24 protective order in this proceeding, because
25 that way we can have a more meaningful
26 discussion even around the schedule but,
27 also, at these workshops and -- right -- to
28 have the security considerations, especially

1 on the network or infrastructure workshop, a
2 protective order would be help. Because I
3 understand that it's -- it's been a challenge
4 to obtain non-disclosure agreements with all
5 the providers, not just for TURN, but for
6 others. And so perhaps a protective order
7 will just speed up, again, the process here.
8 And we can get to the work that needs to be
9 done.

10 ALJ FOGEL: Yes. Thank you for that.

11 I did inquire at the Commission, and
12 I was told that the Commission does not
13 typically use protective orders. So I am
14 curious, you know, if a party here has
15 experience with using a protective order
16 under -- with this Commission.

17 Please go ahead, Mr. Goodman.

18 MR. GOODMAN: Thank you, your Honor.
19 They have most typically been used in merger
20 proceedings. I cannot recall if there is one
21 in the Sprint/T-Mobile proceeding. But I
22 could certainly track down that information
23 for you, if it would be helpful.

24 ALJ FOGEL: And I believe you said,
25 "The merger proceeding."

26 Is that what you said?

27 MR. GOODMAN: In merger proceedings,
28 generally. Yes.

1 ALJ FOGEL: Merger proceedings,
2 generally. Okay.

3 Ms. Tylek?

4 MS. TYLEK: I guess I just wanted to
5 ask for clarification on what the protective
6 order --

7 ALJ FOGEL: Excuse me. Off the record.

8 (Off the record.)

9 ALJ FOGEL: On the record.

10 And please go ahead, Ms. Tylek.

11 MS. TYLEK: Thank you. Bianca Tylek
12 for Californians for Jail and Prison Phone
13 Justice Coalition.

14 I just wanted to clarify, like, in
15 the suggestion for a protective order, would
16 that be to, like, make these hearings in
17 particular confidential? I'm just not
18 completely sure what the aim is.

19 ALJ FOGEL: Yes. And I have not worked
20 with a protective order in the past.

21 Mr. Goodman or Ms. Villanueva, if
22 you would care to respond?

23 Please go ahead, Mr. Goodman.

24 Oops, off the record, please.

25 (Off the record.)

26 ALJ FOGEL: On the record.

27 MR. GOODMAN: Thank you, your Honor.
28 Paul Goodman with the Center for Accessible

1 Technology.

2 Typically, a protective order orders
3 all the parties who basically sign an
4 attachment to comply with confidentiality
5 provisions. The attachment is basically an
6 affidavit stating you'll comply with the
7 protections issued in the order. And rather
8 than negotiating non-disclosure agreements
9 party by party, parties can just sign the
10 protective order and sign the attachment for
11 each person who's going to have access to
12 that information. And then -- then everyone
13 who essentially signs that affidavit can have
14 access to the confidential information in the
15 proceeding.

16 ALJ FOGEL: Yes. Please go ahead, Ms.
17 Villanueva.

18 And then we'll come to you, Ms.
19 Tylek.

20 Go ahead.

21 MS. VILLANUEVA: Thank you, your Honor.

22 Actually, I would -- if I may, I
23 would like to request for my colleague,
24 Christine Mailloux, to be unmuted. She's on
25 the attendee line. She's very familiar with
26 these protective orders. And I think we
27 could benefit for her insight as well.

28 ALJ FOGEL: Okay. Let's go to that in

1 just a minute. If -- let's go off the
2 record.

3 (Off the record.)

4 ALJ FOGEL: We'll go back on the
5 record.

6 Go ahead, Ms. Tylek.

7 MS. TYLEK: Thank you. And I look
8 forward to hearing from Ms. Mailloux.

9 This is Bianca Tylek for The
10 Californians for Jail and Prison Phone
11 Justice Coalition. I will say we personally
12 do have a concern if the hearings all became
13 protected. I'm not sure that we would in
14 every case want to sign a protective order.
15 I think there are a few other parties that
16 have intentionally chosen in other
17 proceedings, including the FCC proceedings,
18 to not sign onto protective orders and to not
19 pursue confidential information for various
20 reasons related to our advocacy. So I will
21 just say, I think turning all of the
22 proceedings into protected, confidential
23 proceedings may present some issues for some
24 parties.

25 ALJ FOGEL: Certainly. And I believe
26 we'll hear from -- in just a minute we'll
27 hear from Miss -- excuse me --

28 MS. MAILLOUX: Ms. Mailloux --

1 ALJ FOGEL: -- Mr. Merrill. And then
2 -- let's go ahead and hear from Mr. Merrill.
3 And then we'll hear from Ms. Mailloux. And
4 then I would like to come back to the
5 providers as well.

6 Go ahead, Mr. Merrill.

7 MR. MERRILL: Yes. Scott Merrill, Cal
8 Advocates.

9 I guess, just to clarify briefly,
10 when we're talking about confidentiality in
11 this, we're talking strictly in terms of GO
12 60 -- General Order 66 and, I guess, PUC Code
13 583 when we're talking about that. We're not
14 classifying this entire thing under any terms
15 of confidentiality beyond what's already kind
16 of, like, the purview of what the Commission
17 has set forth and what the law sets forth.

18 ALJ FOGEL: Ms. Mailloux, if you could
19 please come on screen if you have a video.
20 Or, if not, go ahead and speak. And if you
21 wouldn't mind reminding me how to say your
22 name.

23 MS. MAILLOUX: Yes, your Honor.
24 Hopefully everybody can hear me?

25 ALJ FOGEL: Yes, I can.

26 MS. MAILLOUX: Great. So, Christine
27 Mailloux. It's Christine, C-h-r-i-s-t-i-n-e,
28 and Mailloux, M-a-i-l-l-u-o-x. Thank you,

1 your Honor, for letting me speak just for a
2 minute on this very specific topic.

3 I will echo, first of all, what Mr.
4 Goodman and Mr. Merrill said about the
5 background of the idea of a protective order.
6 This protective order would not be -- and I
7 agree with Ms. Tylek's concern, for sure. So
8 we would not support a protective order that
9 created a blanket confidentiality protection
10 of all of the material. This protective
11 order would only apply to material that is
12 appropriately designated as confidential.

13 So it really just serves the purpose
14 of a, sort of, more generic non-disclosure
15 agreement that would only apply to material
16 that is appropriately designated as
17 confidential. It is true that it is not
18 necessarily a common vehicle that the
19 Commission adopts. However, it is something
20 that the Commission does have experience
21 with.

22 Certainly, in merger proceedings, as
23 Mr. Goodman mentioned, including earlier
24 merger proceedings, AT&T/T-Mobile in 2011
25 where a protective order was actually used
26 quite successfully. The telecommunications
27 competition OII, I think it was, docket in
28 2015, I.15-11-something-something, that

1 docket also used a protective order.

2 Another point about the protective
3 order that I would highlight is something
4 that one of the carriers raised as a valid
5 concern, which is making sure that the
6 carriers cannot see each other's data. And
7 so there were parts of the protective order
8 that perhaps allowed a carrier to designate a
9 non- -- like, an outside counsel or a
10 non-in-house representative to receive data.
11 Or there would just be, essentially,
12 prohibitions on certain entities to enter
13 into the protective order. Or the protective
14 order would cover just a couple of parties
15 slightly differently.

16 We have much fewer parties in this
17 -- active parties in this docket than we had
18 in either of the other two dockets I
19 mentioned to you. So I would imagine that
20 this would logistically be at least certainly
21 worth investigating.

22 I will echo what Ms. Villanueva
23 said. And I think Mr. Merrill has raised
24 that issue. Mr. Raher has had this
25 experience. We tried hard, actually, to
26 enter into just the -- not to get the data,
27 but to enter into non-disclosure agreements
28 with the carriers to see the data that they

1 were providing to Public Advocates Office.
2 And that turned out to be, in my experience,
3 some of the most difficult processes. And we
4 never really did figure out why, you know.

5 And so we're hoping that, just to
6 make that Phase II go a little more
7 efficiently, if there could be a single
8 document that we could sign where we would
9 agree to then honor reasonable
10 confidentiality designations, that would be
11 most helpful.]

12 ALJ FOGEL: Certainly. Thank you for
13 that, Ms. Mailloux. That was helpful
14 background. From what you're saying, we
15 could -- there could potentially be a
16 protective order that did not allow carrier
17 parties to see each other's confidential
18 material.

19 With that specification, I'd like to
20 invite anyone from -- excuse me --
21 Ms. Collins, Mr. Petro, Ms. Acocella to
22 comment on this process.

23 MS. COLLINS: Angela Collins on behalf
24 of GTL.

25 We have successfully used protective
26 orders at the Federal Communications
27 Commission, and we would be open to using
28 something here.

1 To Ms. Tylek's point, we weren't
2 suggesting an entire workshop of -- be deemed
3 confidential. And with respect to my comment
4 on the infracture, that would only probably
5 even be certain portions of the workshop or
6 certain specific materials that were being
7 used. It depends on the format of the
8 workshop obviously.

9 And to the point if all carriers are
10 participating, I'm sure we could work out a
11 way that data could be exchanged and
12 non-confidential information could be
13 exchanged in the workshop. I perceive it
14 would be the way same that oftentimes
15 confidential information is given in open
16 court under certain protections or
17 information that is printed on yellow paper
18 when it's submitted as confidential, et
19 cetera.

20 Thank you.

21 ALJ FOGEL: You're welcome.

22 Mr. Petro or Ms. Acocella, would you
23 care to comment on that topic?

24 MR. PETRO: Lee Petro, NCIC. I believe
25 certainly provided information through the
26 FCC protective order since it was initiated
27 back in 2013. And even, you know,
28 designating an outside counsel for the

1 carriers, the providers has been an effective
2 way to be able to, you know, advise our
3 clients but still not share the data with
4 decision makers. So that would be, you know,
5 a reasonable approach.

6 ALJ FOGEL: Thank you.

7 MS. ACOCELLA: Joanna Acocella.

8 Yeah, I would say we've also, like
9 everyone else, participated in the protective
10 order with the FCC and others to ensure that
11 data could be shared --

12 (Reporter clarification.)

13 MS. ACOCELLA: Sure. Can you hear now?
14 Joanna Acocella.

15 I'm going to say like the other
16 providers who have experienced successfully
17 carrying the data under the protective order
18 with the FCC, we are happy to pursue
19 something similar to that again.

20 We do want to ensure that when we're
21 talking about this type of discovery, that
22 it's not, you know, an ongoing discovery that
23 is outside sort of the normal practice of
24 civil discovery, but happy to engage in the
25 opportunity to discuss how best to get data
26 into people's hands if they're worthwhile in
27 this particular proceeding.

28 ALJ FOGEL: Thank you, Ms. Acocella.

1 Given this discussion and the
2 general interest in it as well as the
3 provider's openness to it, what I'd like to
4 suggest -- since I'm not familiar with this
5 myself personally, Ms. Mailloux, is -- if you
6 wouldn't mind, what I'd like to do is ask you
7 or TURN to confer with the other parties as
8 needed and -- but develop a draft protective
9 order that could then be submitted filed for
10 me for us to consider adopting. If you
11 wouldn't mind developing the language and
12 vetting that language in a meet and confer
13 that I will issue an order on and then filing
14 that for our consideration.

15 Does that sound like a workable
16 process?

17 MS. MAILLOUX: Your Honor, I suppose it
18 is only fair. And that is fine. I guess in
19 whatever order you issue I would request,
20 however, that if upon, you know, a meet and
21 confer where I guess we could draft a draft,
22 send it out for people to review, have a meet
23 and confer a few days later, that is fine.
24 And then submit something.

25 I -- full disclosure it has been my
26 experience that, you know, depending on the
27 way the protective order is drafted, there
28 may be some back and forth. There may be

1 some concerns that have to be addressed
2 amongst the different parties, which is fine.

3 I think similar to what
4 Ms. Villanueva had said about trying to meet
5 and confer, on the prioritization of the
6 workshops we're hoping that this does not
7 turn into a long process. I find that while
8 I'm happy to submit -- get the process
9 started and submit what would essentially be
10 a template with some opportunity for comment,
11 that ultimately, you know, the Commission can
12 take a look and really decide what makes the
13 most sense for the efficiency and the
14 effectiveness of the docket and the data
15 gathering ultimately.

16 So again, not to have yet sort of
17 another process that takes, you know, many,
18 many weeks, that would not necessarily --
19 that might take away from some of the
20 efficiency of gathering this protective
21 order. But we will look forward to your
22 ruling and we'll work under that.

23 ALJ FOGEL: Certainly. I understand
24 that it may not be possible for a meet and
25 confer to arrive at a consensus, a full
26 consensus on all of the details of the
27 protective order, but I do think it could be
28 helpful to address many issues.

1 And if there are further details,
2 then we will take comment and address them
3 ourselves. But I appreciate you getting that
4 ball rolling. And we will set a deadline for
5 that so we don't have this go on too long.

6 MS. MAILLOUX: Thank you.

7 ALJ FOGEL: And, Ms. Collins, go ahead.

8 MS. COLLINS: Thank you. Angela
9 Collins.

10 The FCC has a standard protective
11 order which is what was used in the FCC's ICS
12 case. I know all of the providers on this
13 call have signed that protective order. That
14 may be a useful starting point for the
15 protective order in this case to the extent
16 that there's concern about the
17 meet-and-confer process.

18 MS. MAILLOUX: Your Honor, can I
19 respond to that very quickly?

20 ALJ FOGEL: Yes, please. But please do
21 state your name as you get started.

22 MS. MAILLOUX: Christine Mailloux with
23 TURN. Thank you.

24 I appreciate what Ms. Collins just
25 said. Obviously, most of the carriers have
26 mentioned the FCC protective order. One of
27 the barriers we ended up having in trying to
28 sign a Commission-based nondisclosure

1 agreement was the carriers' sort of continual
2 reference to the FCC's protective order.

3 In my experience, the PUC's
4 protective orders and accepted non-disclosure
5 agreements that we have signed with many,
6 many telecommunication providers over the
7 years do not really closely mirror the FCC's
8 protective order.

9 What I will pledge to do is to
10 review the FCC's protective order. I
11 appreciate the fact that these carriers --
12 that's what they're familiar and comfortable
13 working with. However, I guess I will just
14 put on the record here that my experience has
15 been that the PUC's protective orders and
16 accepted non-disclosure agreements are
17 different in part because the PUC's
18 processes, its rules of evidence, the way
19 that it works either in hearings or in
20 written comment and what, as you have
21 mentioned, the rules it has on
22 confidentiality are quite different than what
23 is before the FCC.

24 So I will expect to tailor my at
25 least proposed template to be more PUC
26 focused, but I certainly appreciate what the
27 carriers are, you know, acknowledging about
28 their experience with the FCC protective

1 order. And I will do my best to incorporate
2 what I can from that -- from that protective
3 order.

4 ALJ FOGEL: Okay. Very good. Thank
5 you for that verification.

6 I think we are just about done here.
7 Before we close, I would just like to invite
8 any party that would like to make any final
9 comment.

10 Any issue you haven't had a chance
11 to make yet if you could raise your hand if
12 you'd like to do that.

13 (No response.)

14 ALJ FOGEL: Seeing none, I want to
15 thank everyone for joining today and also for
16 your prehearing conference statements. I'll
17 be working with the commissioner to develop
18 the scoping memo in this proceeding.

19 I did indicate I would likely issue
20 a couple of rulings shortly, one regarding
21 requesting information on drafted protective
22 order and, secondly, encouraging meet and
23 confer by a date certain to then request a
24 suggestion on the prioritization and
25 approximate schedule of workshops.

26 And I would like to ask
27 Ms. Villanueva if you would be willing to
28 chair that second process and submit a

1 proposal in response to the ruling.

2 MS. VILLANUEVA: Of course, your Honor.

3 Thank you.

4 ALJ FOGEL: Okay. Super.

5 And with that we do hope to issue a
6 scoping memo in probably mid to late October.

7 If there are no other questions, we
8 are adjourned and off the record.]

9 (Off the record.)

10 (Whereupon, at the hour of 12:34
11 p.m., the Commission then adjourned.)

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

CERTIFICATION OF TRANSCRIPT OF PROCEEDING

I, JASON STACEY, CERTIFIED SHORTHAND REPORTER
NO. 14092, IN AND FOR THE STATE OF CALIFORNIA DO
HEREBY CERTIFY THAT THE PAGES OF THIS TRANSCRIPT
PREPARED BY ME COMPRISE A FULL, TRUE, AND CORRECT
TRANSCRIPT OF THE TESTIMONY AND PROCEEDINGS HELD IN
THIS MATTER ON SEPTEMBER 15, 2021.

I FURTHER CERTIFY THAT I HAVE NO INTEREST IN THE
EVENTS OF THE MATTER OR THE OUTCOME OF THE PROCEEDING.

EXECUTED THIS NOVEMBER 12, 2021.

A handwritten signature in black ink, appearing to read 'JAS STACEY', written over a horizontal line.

JASON A. STACEY
CSR NO. 14092

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STATE OF CALIFORNIA

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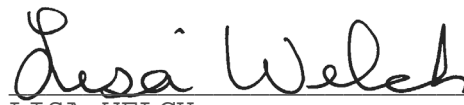
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EXECUTED THIS NOVEMBER 12, 2021.



LISA WELCH
CSR NO. 10928

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